

IN RE: PETITIONS FOR SPECIAL HEARING, \* BEFORE THE  
 SPECIAL EXCEPTION & VARIANCE - N/S  
 Windsor Mill Road, 510' NW of \* DEPUTY ZONING COMMISSIONER  
 the c/l of Lorraine Avenue \* OF BALTIMORE COUNTY  
 (Lorraine Park Cemetery)  
 2nd Election District \* Case No. 96-348-SPHXA  
 2nd Councilmanic District  
 Hebrew Young Mens Sick Relief \*  
 Association - Petitioners  
 \* \* \* \* \*

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before the Deputy Zoning Commissioner as Petitions for Special Hearing, Special Exception and Variance for the property identified above, known as the Lorraine Park Cemetery, which is located in the vicinity of Gwynn Oak Avenue in Woodlawn. The Petitions were filed by the owners of the property, Hebrew Young Mens Sick Relief Association, by Daniel Elkin, President, and the Contract Purchaser/Lessee, American PCS, L.P., by Margaret C. Ruggieri, Esquire, through their attorney, Christine K. McSherry, Esquire. The Petitioners seek approval of a wireless transmitting and receiving facility on the subject property as a use in combination with an existing cemetery, a special exception to permit a cemetery and a wireless transmitting and receiving facility on the subject site, and variance relief from Section 502.7.C.2 of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit property line setbacks of 158 feet to the west, 197 feet to the east, and 210 feet to the north, all in lieu of the required 300 feet each for the proposed facility. The subject property and relief sought are more particularly described on the site plan submitted which was accepted and marked into evidence as Petitioner's Exhibit 1.

Appearing at the hearing on behalf of the Petitions were Greg Sarro, a representative of American PCS, L.P., the Contract Lessee, Andrew Werchniak, an electrical engineering consultant with Moffitt, Larsen, and

ORDER RECEIVED FOR FILING  
 Date 5/15/96  
 By [Signature]

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Jenkins, Bob Morelock, Registered Landscape Architect with Daft-McCune-Walker, Inc., who prepared the site plan for this project, and Kevin Mason, a representative of Vento Communications. The Petitioners were represented by Christine K. McSherry, Esquire. Appearing as interested citizens were Joseph E. Brimmer and Alfred Williamson, owners of adjoining property.

Testimony and evidence offered revealed that the subject property consists of 9.54 acres, more or less, zoned D.R. 5.5 and is the site of the Lorraine Park Cemetery. The property has been utilized as a cemetery since prior to the effective date of the Baltimore County Zoning Regulations (B.C.Z.R.) in 1945. The Petitioners have entered into a lease agreement with American PCS, L.P. who wishes to erect a wireless transmitting and receiving facility to the rear of the subject site in the location shown on Petitioner's Exhibit 1. The proposed facility will consist of a monopole approximately 150 feet in height, which will be hidden within the existing tree line on the property, in an area that will not interfere with the cemetery use. Due to the residential zoning of the property, its use as a cemetery and the proposed use of a portion of the site for a wireless transmitting and receiving facility, the special exception requests are necessary. Furthermore, inasmuch as the Petitioner is seeking special exception relief for two uses, that is the cemetery and the wireless transmitting and receiving facility, the relief requested within the special hearing is generated. The variance relief is necessitated by the narrow configuration of the lot and existing improvements thereon.

As stated previously, two adjacent property owners attended the hearing to express their concerns. Mr. Bremmer and Mr. Williamson own property adjacent to this site and indicated they would prefer that the monopole be located further from the southeastern property line adjoining

their respective properties. A brief discussion ensued between these gentlemen and representatives of American PCS, L.P. and it was determined and agreed that American PCS, L.P. would relocate the monopole further north from the location shown on Petitioner's Exhibit 1. A revised copy of the site plan, marked as Petitioner's Exhibit 1A, reflects the relocation of this monopole to an area 60 feet from the northern property line, thereby maintaining the full 300-foot distance from the south side property line adjoining the property owned by Messrs. Bremmer and Williamson. As a result of this relocation, the variance relief is modified, and the Petitioners need only seek a variance to permit a property line setback of 60 feet on the north side and 192 feet on the east side as a variance on the south side is no longer necessary.

As stated previously, the special hearing request was generated by the fact that the Petitioners wish to continue to utilize the 5-acre parcel being dedicated for the wireless transmitting and receiving facility as a cemetery. Both uses are passive uses, and can, in fact, coincide with one another. Therefore, the special hearing request shall be granted.

As to the special exception relief requested, the B.C.Z.R. permits cemeteries and wireless transmitting and receiving facilities in the D.R. 5.5 zone by special exception. The testimony was clear that the cemetery has existed on the property for many years without any adverse effects upon the surrounding locale and that the proposed wireless transmitting and receiving facility can be conducted without real detriment to the neighborhood. The monopole itself will be located within the mature tree line which exists on the property and only the top of the tower will be visible. The facts and circumstances do not show that the proposed use at the particular location described by Petitioner's Exhibit 1A would have

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Date

By

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any adverse impact above and beyond that inherently associated with such a special exception use, irrespective of its location within the zone. Schultz v. Pritts, 432 A.2d 1319 (1981).

The proposed use will not be detrimental to the health, safety, or general welfare of the locality, nor tend to create congestion in roads, streets, or alleys therein, nor be inconsistent with the purposes of the property's zoning classification, nor in any other way be inconsistent with the spirit and intent of the B.C.Z.R.

After reviewing all of the testimony and evidence presented, it is clear that the Petitioners have satisfied the requirements of Sections 502.1 and 502.7 of the B.C.Z.R. and that the special hearing and special exception relief should be granted.

An area variance may be granted where strict application of the zoning regulations would cause practical difficulty to the Petitioner and his property. McLean v. Soley, 270 Md. 208 (1973). To prove practical difficulty for an area variance, the Petitioner must meet the following:

- 1) whether strict compliance with requirement would unreasonably prevent the use of the property for a permitted purpose or render conformance unnecessarily burdensome;
- 2) whether a grant of the variance would do a substantial justice to the applicant as well as other property owners in the district or whether a lesser relaxation than that applied for would give sufficient relief; and,
- 3) whether relief can be granted in such fashion that the spirit of the ordinance will be observed and public safety and welfare secured.

Anderson v. Bd. of Appeals, Town of Chesapeake Beach, 22 Md. App. 28 (1974).

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Date

By

After due consideration of the testimony and evidence presented, it is clear that a practical difficulty or unreasonable hardship will result if the variance, as modified, is not granted. Given the narrow configuration of the property, it is clear that the Petitioners would be unable to meet the setback requirements imposed by the B.C.Z.R. for the proposed monopole without the requested variance. Furthermore, the proposed location for this tower was agreed to by all parties present at the hearing. The evidence was clear that the relief requested will not adversely affect the health, safety and general welfare of the surrounding locale and meets the spirit and intent of the B.C.Z.R.

Pursuant to the advertisement, posting of the property, and public hearing on these Petitions held, and for the reasons given above, the special hearing, special exception and variance relief, as modified, should be granted.

THEREFORE, IT IS ORDERED by the Deputy Zoning Commissioner for Baltimore County this 15<sup>th</sup> day of May, 1996 that the Petition for Special Hearing to approve a wireless transmitting and receiving facility on the subject property as a use in combination with an existing cemetery, be and is hereby GRANTED; and,

IT IS FURTHER ORDERED that the Petitions for Special Exception to permit a cemetery and a wireless transmitting and receiving facility on the subject site, in accordance with Petitioner's Exhibit 1A, be and are hereby GRANTED; and,

IT IS FURTHER ORDERED that a variance from Section 502.7.C.2 of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit property line setbacks of 60 feet to the north and 192 feet to the east, in lieu of the

ORDER RECEIVED FOR FILING

Date

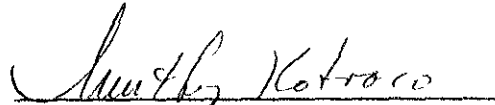
By

MICROFILMED

required 300 feet each for the proposed facility, in accordance with Petitioner's Exhibit 1A, be and is hereby GRANTED; and,

IT IS FURTHER ORDERED that the Petition for Variance seeking relief from Section 502.7.C.2 of the B.C.Z.R. to permit property line setbacks of 158 feet to the west, 197 feet to the east, and 210 feet to the north, all in lieu of the required 300 feet each, in accordance with Petitioner's Exhibit 1, be and is hereby DISMISSED, inasmuch as the location of the monopole has been altered.

TMK:bjs

  
TIMOTHY M. KOTROCO  
Deputy Zoning Commissioner  
for Baltimore County

ORDER RECEIVED FOR FILING  
Date 5/15/96  
By [Signature]

Baltimore County Government  
Zoning Commissioner  
Office of Planning and Zoning



Suite 112 Courthouse  
400 Washington Avenue  
Towson, MD 21204

May 15, 1996

(410) 887-4386

Christine K. McSherry, Esquire  
Whiteford, Taylor & Preston  
210 W. Pennsylvania Avenue  
Towson, Maryland 21204

RE: PETITIONS FOR SPECIAL HEARING, SPECIAL EXCEPTION & VARIANCE  
N/S Windsor Mill Road, 510' NW of the c/l of Lorraine Avenue  
(Lorraine Park Cemetery)  
2nd Election District - 2nd Councilmanic District  
Hebrew Young Mens Sick Relief Association - Petitioners  
Case No. 96-348-SPHXA

Dear Ms. McSherry:

Enclosed please find a copy of the decision rendered in the above-captioned matter. The Petitions for Special Hearing, Special Exception, and Variance, as modified, have been granted in accordance with the attached Order.

In the event any party finds the decision rendered is unfavorable, any party may file an appeal to the County Board of Appeals within thirty (30) days of the date of this Order. For further information on filing an appeal, please contact the Zoning Administration and Development Management office at 887-3391.

Very truly yours,

A handwritten signature in cursive script, reading "Timothy M. Kotroco".

TIMOTHY M. KOTROCO  
Deputy Zoning Commissioner  
for Baltimore County

TMK:bjs

cc: Mr. Daniel Elkin, President, Hebrew Young Mens Sick Relief Assoc.  
9080 Meadow Heights Road, Randallstown, Md. 21133

Margaret C. Ruggieri, Esquire, American PCS, L.P., One Democracy Ctr.  
6901 Rockledge Drive, Suite 600, Bethesda, Md. 20817

Mr. Joseph E. Brimmer, 1370 Lambert Drive, Silver Spring, Md. 20902  
Mr. Alfred Williamson, 1231 Providence Road, Towson, Md. 21286

People's Counsel; Case File

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# Petition for Special Hearing

to the Zoning Commissioner of Baltimore County

for the property located at

North Side of Windsor Mill Road  
2000 ft. Southeast of  
Gwynn Oak Avenue

which is presently zoned DR 5.5

96-348-SPHXA

This Petition shall be filed with the Office of Zoning Administration & Development Management.

The undersigned, legal owner(s) of the property situate in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Special Hearing under Section 500.7 of the Zoning Regulations of Baltimore County, to determine whether or not the Zoning Commissioner should approve

A use in combination for a wireless transmitting and receiving facility on an existing cemetery.

Property is to be posted and advertised as prescribed by Zoning Regulations.

I, or we, agree to pay expenses of above Special Hearing advertising, posting, etc., upon filing of this petition, and further agree to and are to be bound by the zoning regulations and restrictions of Baltimore County adopted pursuant to the Zoning Law for Baltimore County.

Contract Purchaser/Lessee:

Margaret C. Ruggieri, Esq.  
For American PCS, L.P.

(Type or Print Name)

Signature

One Democracy Center, Suite 600

Address

6901 Rockledge Dr.

Bethesda, MD 20817

City

State

Zipcode

Attorney for Petitioner

Christine K. McSherry, Esq.

(Type or Print Name)

Signature

c/o Whiteford, Taylor & Preston  
210 W. Pennsylvania Ave.

Address

Phone No.

Towson, MD

21204

832-2000

City

State

Zipcode

We do solemnly declare and affirm, under the penalties of perjury, that I/we are the legal owner(s) of the property which is the subject of this Petition.

Legal Owner(s):

Hebrew Young Mens Sick Relief  
Association

(Type or Print Name)

Signature

Daniel Elkin Pres.

DANIEL ELKIN - PRES.

(Type or Print Name)

Daniel Elkin - PRES.

Signature

9080 Meadow Heights Road

(410) 523-0991

Address

Phone No.

Randallstown, MD 21133

City

State

Zipcode

Name, Address and phone number of representative to be contacted.

Christine K. McSherry, Esq.

Name

210 W. Pennsylvania Ave.

832-2000

Address

Phone No.

OFFICE USE ONLY

ESTIMATED LENGTH OF HEARING

unavailable for Hearing

the following dates

Next Two Months

ALL

OTHER

REVIEWED BY:

R.T.

DATE

3-12-96

ITEM # 346

MICROFILMED





# Petition for Special Exception

to the Zoning Commissioner of Baltimore County

for the property located at

Northside of Windsor Mill Road

2000 Ft. southeast of

Gwynn Oak Avenue

96-348-SPHXA

which is presently zoned

DR 5.5

This Petition shall be filed with the Office of Zoning Administration & Development Management.

The undersigned, legal owner(s) of the property situate in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Special Exception under the Zoning Regulations of Baltimore County, to use the herein described property for

a wireless transmitting and receiving facility.

Property is to be posted and advertised as prescribed by Zoning Regulations.

I, or we, agree to pay expenses of above Special Exception advertising, posting, etc., upon filing of this petition, and further agree to and are to be bound by the zoning regulations and restrictions of Baltimore County adopted pursuant to the Zoning Law for Baltimore County.

Contract Purchaser/Lessee:

Margaret C. Ruggieri, Esq.

For American PCS, L.P.

(Type or Print Name)

*M. Ruggieri*

Signature

One Democracy Center, Suite 600

Address

6901 Rockledge Dr.

Bethesda, MD 20817

City

State

Zipcode

Attorney for Petitioner:

Christine K. McSherry, Esq.

(Type or Print Name)

*Christine K. McSherry*

Signature

c/o Whiteford, Taylor & Preston

210 W. Pennsylvania Ave.

Address

Towson, MD 21204

Phone No.

832-2000

City

State

Zipcode

We do solemnly declare and affirm, under the penalties of perjury, that I/we are the legal owner(s) of the property which is the subject of this Petition.

Legal Owner(s):

Hebrew Young Mens Sick Relief

Association

(Type or Print Name)

DANIEL ELKIN Pres.

Signature

*Daniel Elkin*

(Type or Print Name)

DANIEL ELKIN PRES.

Signature

9080 Meadow Heights Road

(410) 523-0991

Address

Phone No.

Randallstown, MD

21133

City

State

Zipcode

Name, Address and phone number of legal owner, contract purchaser or representative to be contacted.

Christine K. McSherry, Esq.

Name

210 W. Pennsylvania Ave.

832-2000

Address

Phone No.

OFFICE USE ONLY

ESTIMATED LENGTH OF HEARING

unavailable for Hearing

the following dates

Next Two Months

ALL

OTHER

REVIEWED BY: R.T.

DATE

3-12-96

ITEM 346

MICROFILMED



# Petition for Variance

to the Zoning Commissioner of Baltimore County

for the property located at

North Side of Windsor Mill Road  
2000 ft. Southeast of  
Gwynn Oak Avenue

96-348-SPHXA

which is presently zoned

DR 5.5

This Petition shall be filed with the Office of Zoning Administration & Development Management.

The undersigned, legal owner(s) of the property situate in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Variance from Section(s)

502.7 C 2 to allow a setback of 158 ft. to the nearest property line in lieu of the required 300 ft. (158 ft. to the westside property line, 197 ft. to the eastside property line and 210 ft. to the north rear prop. line) of the Zoning Regulations of Baltimore County, to the Zoning Law of Baltimore County; for the following reasons: (indicate hardship or practical difficulty)

To be presented at hearing.

Property is to be posted and advertised as prescribed by Zoning Regulations.

I, or we, agree to pay expenses of above Variance advertising, posting, etc., upon filing of this petition, and further agree to and are to be bound by the zoning regulations and restrictions of Baltimore County adopted pursuant to the Zoning Law for Baltimore County.

Contract Purchaser/Lessee:

Margaret C. Ruggieri, Esq.

For American PCS L.P.

(Type or Print Name)

Signature

One Democracy Center, Suite 600

Address

6901 Rockledge Dr.

Bethesda, MD 20817

City

State

Zipcode

Attorney for Petitioner

Christine K. McSherry, Esq.

(Type or Print Name)

Signature

c/o Whiteford, Taylor & Preston  
210 W. Pennsylvania Ave.

Address

Towson, MD 21204

Phone No.

832-2000

City

State

Zipcode

We do solemnly declare and affirm under the penalties of perjury, that I/we are the legal owner(s) of the property which is the subject of this Petition

Legal Owner(s):

Hebrew Young Mens Sick Relief  
Association

(Type or Print Name)

Signature

DANIEL ELKIN - Pres.

Signature

Daniel Elkin - President

(Type or Print Name)

Signature

9080 Meadow Heights Road

(410) 523-0991

Address

Phone No.

Randallstown, MD

21133

City

State

Zipcode

Name, Address and phone number of representative to be contacted

Christine K. McSherry, Esq.

Name

210 W. Pennsylvania Ave.

832-2000

Address

Phone No.

OFFICE USE ONLY

ESTIMATED LENGTH OF HEARING

unavailable for Hearing

the following dates

Next Two Months

ALL

OTHER

REVIEWED BY:

R.T.

DATE

3-12-96



Printed with Soybean Ink  
on Recycled Paper

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ITEM# 346

Description

96-348-S PHXA

to Accompany Petition for Special Exception and Variance

5.0 Acre Parcel

The Hebrew Young Mens Sick Relief Association of Baltimore City

Northeast Side of Windsor Mill Road

North of Lorraine Avenue

Second Election District, Baltimore County, Maryland



Dafr McCune Walker, Inc.

200 East Pennsylvania Avenue

Towson, Maryland 21286

410 296 3333

Fax 296 4705

A Team of Land Planners,

Landscape Architects,

Engineers, Surveyors &

Environmental Professionals

Beginning for the same at the end of the third of the three following courses and distances measured from the point formed by the intersection of the centerline of Windsor Mill Road (40 foot wide) with the centerline of Lorraine Avenue (35 foot wide), (1) Northwesterly along the centerline of Windsor Mill Road 510 feet, more or less, thence at a right angle to said Windsor Mill Road (2) northeasterly 20 feet, more or less, thence (3) North 42 degrees 36 minutes 41 seconds East 376.25 feet to the point of beginning, thence leaving said beginning point and running the following eight courses and distances, viz; (1) North 44 degrees 52 minutes 18 seconds West 429.52 feet, thence (2) North 43 degrees 23 minutes 41 seconds East 173.73 feet, thence (3) North 62 degrees 26 minutes 41 seconds East 40.33 feet, thence (4) South 23 degrees 20 minutes 19 seconds East 56.08 feet, thence (5) South 45 degrees 54 minutes 19 seconds East 4.50 feet, thence (6) North 44 degrees 05 minutes 41 seconds East 360.50 feet, thence (7) South 45 degrees 54 minutes 19 seconds East 372.67 feet, thence (8) South 45 degrees 07 minutes 41 seconds West 558.82 feet to the point of the beginning; containing 5.0 acres of land, more or less.

THIS DESCRIPTION HAS BEEN PREPARED FOR ZONING PURPOSES ONLY AND IS NOT INTENDED TO BE USED FOR CONVEYANCE.

March 12, 1996

MICROFILMED

ITEM # 346

Project No. 94161.68 (L94161.69-SE/Var)

96-348-SPHXA



MICROFILMED

ITEM #346

**CERTIFICATE OF POSTING**  
**ZONING DEPARTMENT OF BALTIMORE COUNTY**  
**Towson, Maryland**

District 2nd Case No. 96-348 Date of Posting 4/2/94  
SPHXA  
Petitioner: Hebrew Young Mens Sick Relief Assoc.  
Location of property: NE of Windsor Hill Rd, SID + 1-  
NE of Lorraine Ave  
Location of Sign: Service Drive to adjacent site

Remarks: \_\_\_\_\_

Posted by \_\_\_\_\_

Signature

Date of return: \_\_\_\_\_

Number of Signs: \_\_\_\_\_

RECORDED

**NOTICE OF HEARING**

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County will hold a public hearing on the property identified herein in Room 106 of the County Office Building, 111 W. Chesapeake Avenue in Towson, Maryland 21204 or Room 113, Old Courthouse, 400 Washington Avenue, Towson, Maryland 21204 as follows:

Case: #96-348-SPHXA  
(Item 345)

NE/S Windsor Mill Road, 510' +/- ME of 44 Lorraine Avenue  
2nd Election District  
2nd Councilmanic  
Legal Owner(s):  
Hebrew Young Mens Sick  
Relief Association

**Special Hearing:** to approve a use in combination for a wireless transmitting and receiving facility on an existing cemetery. **Special Exception:** for a wireless transmitting and receiving facility. **Special Exception:** for a cemetery. **Variance:** to allow a setback of 158 feet to the nearest property line in lieu of the required 300 feet.

Hearing: Wednesday, April 17, 1996 at 9:00 a.m. in Rm. 106, County Office Building.

LAWRENCE E. SCHMIDT  
Zoning Commissioner for  
Baltimore County

**NOTES:** (1) Hearings are Handicapped Accessible for special accommodations. Please Call 867-3353.  
(2) For information concerning the file and/or Hearing, Please Call 867-3351.

36386 March 28 C40781

**CERTIFICATE OF PUBLICATION**

TOWSON, MD., 3/28, 1996

THIS IS TO CERTIFY, that the annexed advertisement was published in THE JEFFERSONIAN, a weekly newspaper published in Towson, Baltimore County, Md., once in each of 1 successive weeks, the first publication appearing on 3/28, 1996.

**THE JEFFERSONIAN,**

*A. Harrison*

LEGAL AD. - TOWSON

**MICROFILMED**

**NOTICE OF HEARING**

The Zoning Commissioner of Baltimore County is hereby giving notice that a public hearing on the proposed use of the property located at Room 106 of the County Office Building, 111 W. Chesapeake Avenue, in Towson, Maryland 21204 or Room 118, Old Courthouse, 400 Washington Avenue, Towson, Maryland 21204 as follows:

Case: 896-348-SPTXA

(Item 346)

NE/S Windsor Mill Road, 510' +/- NE of off Lorraine Avenue 2nd Election District 2nd Councilmanic

Legal Owner(s):

Hedrow Young Mans Sick Relief Association

Special Hearing: to approve a use in combination for a wireless transmitting and receiving facility on an existing cemetery. Special Exception for a wireless transmitting and receiving facility. Special Exception: for a cemetery. Variance: to allow a setback of 150 feet to the nearest property line in lieu of the required 300 feet.

Hearing: Wednesday, April 17, 1996 at 9:00 a.m. in Rm. 106, County Office Building.

LAWRENCE E. SCHMIDT  
Zoning Commissioner for Baltimore County

NOTES: (1) Hearings are Handicapped Accessible for special accommodations Please Call 800-3353.

(2) For information concerning the file and/or hearing, Please Call 887-3351.

3536 March 28 C4781

**CERTIFICATE OF PUBLICATION**

TOWSON, MD., 3/28, 1996

THIS IS TO CERTIFY, that the annexed advertisement was published in THE JEFFERSONIAN, a weekly newspaper published in Towson, Baltimore County, Md., once in each of 1 successive weeks, the first publication appearing on 3/28, 1996.

THE JEFFERSONIAN,

*A. A. Henrichson*

LEGAL AD. - TOWSON

MICROFILMED

BALTIMORE CO. TY, MARYLAND  
OFFICE OF FINANCE - REVENUE DIVISION  
MISCELLANEOUS CASH RECEIPT

No.

16904

ITEM# 346

DATE 2-12-96

ACCOUNT

RM-6150

070 - VAR  
- SPX > \$100

\$ 105.00

AMOUNT

\$ 650.00

080 - SIGN: \$105

TOTAL \$755.00

RECEIVED  
FROM:

AMERICAN PCS, L.P.

96-348-SPHXA

FOR:

VAR, SPH, 1/2 SPX + 3 SPX/S

Rep. T.

MICROFILMED

DISTRIBUTION  
WHITE - CASHIER

PINK - AGENCY

VALIDATION OR SIGNATURE OF CASHIER  
YELLOW - CUSTOMER



TO: PUTUXENT PUBLISHING COMPANY  
March 28, 1996 Issue - Jeffersonian

Please forward billing to:

Christine K. McSherry, Esq.  
Whiteford, Taylor & Preston  
210 W. Pennsylvania Avenue  
Towson, MD 21204  
832-2000

---

NOTICE OF HEARING

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County, will hold a public hearing on the property identified herein in  
Room 106 of the County Office Building, 111 W. Chesapeake Avenue in Towson, Maryland 21204  
or  
Room 118, Old Courthouse, 400 Washington Avenue, Towson, Maryland 21204 as follows:

CASE NUMBER: 96-348-SPHYA (Item 346)  
NE/S Windsor Mill Road, 510' +/- NE of c/l Lorraine Avenue  
2nd Election District - 2nd Councilmanic  
Legal Owner: Hebrew Young Mens Sick Relief Association  
Contact Purchaser: American PCS, L.P.

Special Hearing to approve a use in combination for a wireless transmitting and receiving facility on an existing cemetery.

Special Exception for a wireless transmitting and receiving facility.

Special Exception for a cemetery.

Variance to allow a setback of 158 feet to the nearest property line in lieu of the required 300 feet.

HEARING: WEDNESDAY, APRIL 17, 1996 at 9:00 a.m. in Room 106, County Office Building.

LAWRENCE E. SCHMIDT  
ZONING COMMISSIONER FOR BALTIMORE COUNTY

NOTES: (1) HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL ACCOMMODATIONS PLEASE CALL 887-3353.  
(2) FOR INFORMATION CONCERNING THE FILE AND/OR HEARING, PLEASE CALL 887-3391.

MICROFILMED



Baltimore County  
Department of Permits and  
Development Management

Development Processing  
County Office Building  
111 West Chesapeake Avenue  
Towson, Maryland 21204

March 25, 1996

NOTICE OF HEARING

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County, will hold a public hearing on the property identified herein in Room 106 of the County Office Building, 111 W. Chesapeake Avenue in Towson, Maryland 21204  
or  
Room 118, Old Courthouse, 400 Washington Avenue, Towson, Maryland 21204 as follows:

CASE NUMBER: 96-348-SPHXA (Item 346)  
NE/S Windsor Mill Road, 510' +/- NE of c/l Lorraine Avenue  
2nd Election District - 2nd Councilmanic  
Legal Owner: Hebrew Young Mens Sick Relief Association  
Contact Purchaser: American PCS, L.P.

Special Hearing to approve a use in combination for a wireless transmitting and receiving facility on an existing cemetery.  
Special Exception for a wireless transmitting and receiving facility.  
Special Exception for a cemetery.  
Variance to allow a setback of 158 feet to the nearest property line in lieu of the required 300 feet.

HEARING: WEDNESDAY, APRIL 17, 1996 at 9:00 a.m. in Room 106, County Office Building.

A handwritten signature in black ink, appearing to read "Arnold Jablon".

Arnold Jablon  
Director

cc: Hebrew Young Mens Sick Relief  
Margaret C. Ruggieri, Esq.  
Christine K. McSherry, Esq.

NOTES: (1) ZONING SIGN & POST MUST BE RETURNED TO RM. 104, 111 W. CHESAPEAKE AVENUE ON THE HEARING DATE.  
(2) HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL ACCOMMODATIONS PLEASE CALL 887-3353.  
(3) FOR INFORMATION CONCERNING THE FILE AND/OR HEARING, CONTACT THIS OFFICE AT 887-3391.





Case No: 96-348 SPHXA Item No: 346

**AMERICAN PERSONAL COMMUNICATIONS (APC)  
HEARING BEFORE THE BALTIMORE COUNTY  
ZONING COMMISSIONER  
April 17, 1996**

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1. Photograph of site located on the northeast side of Windsor Mill Rd, southeast of Gwynn Oak Avenue
2. Lease Agreement with the Hebrew Young Men's Association, Inc.
3. Photographs and Specification Sheets for Antennas
4. Photograph and Specification Sheets for Equipment Cabinets
5. FCC License
6. Radio Frequency Statement - Jules Cohen
7. FCC Statement on PCS - Creating Significant Benefits for Consumers and Business
8. FCC's Chairman, Reed Hundt, Speech Excerpts

RECEIVED



**American Personal  
Communications**

*Pet Ex #2*

Case No: 96-348 SPHXA Item No: 346

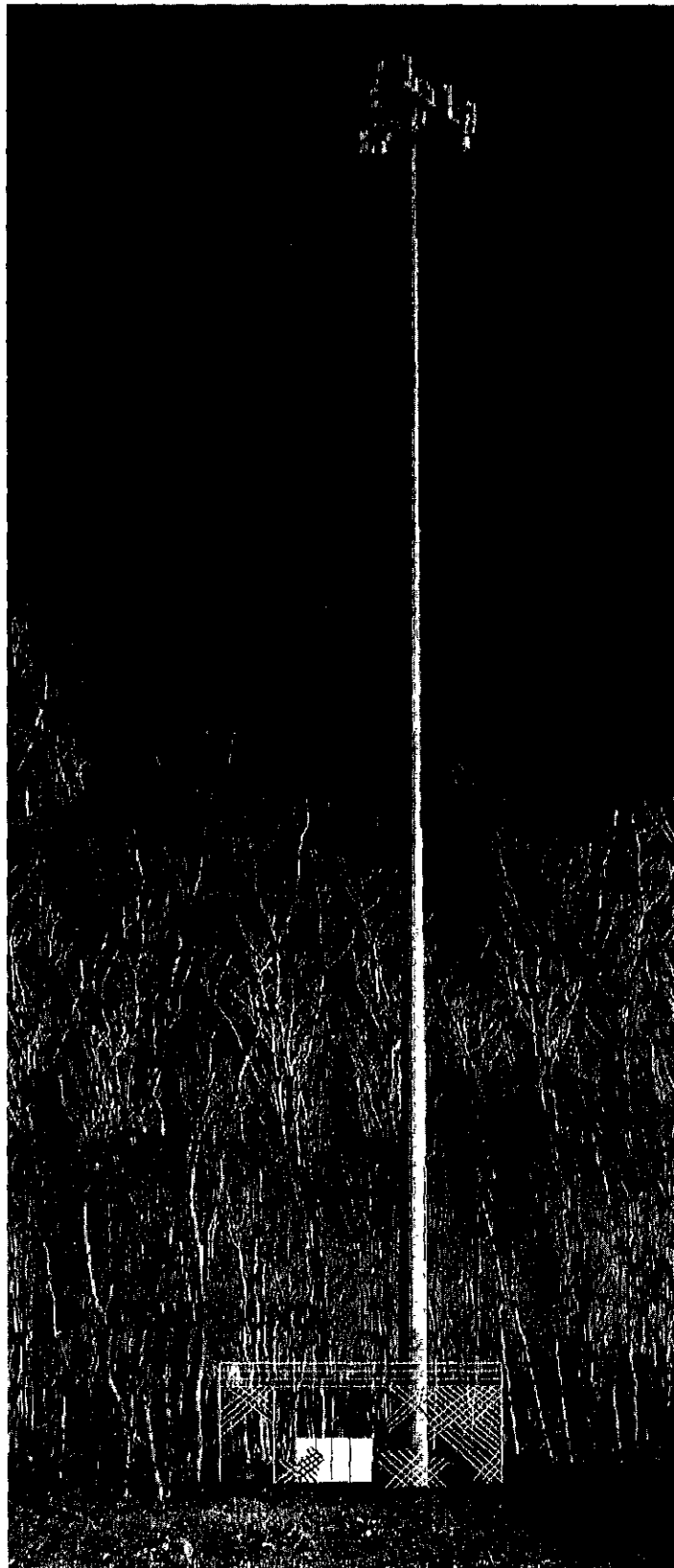
AMERICAN PERSONAL COMMUNICATIONS (APC)  
HEARING BEFORE THE BALTIMORE COUNTY  
ZONING COMMISSIONER  
April 17, 1996

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2. Lease Agreement with the Hebrew Young Men's Association, Inc.
3. Photographs and Specification Sheets for Antennas
4. Photograph and Specification Sheets for Equipment Cabinets
5. FCC License
6. Radio Frequency Statement - Jules Cohen
7. FCC Statement on PCS - Creating Significant Benefits for Consumers and Business
8. FCC's Chairman, Reed Hundt, Speech Excerpts

**MICROFILMED**





VIEW OF SITE LOOKING NORTH.



## DEED OF GROUND LEASE AGREEMENT

THIS DEED OF GROUND LEASE AGREEMENT, dated as of this 27 day of February, 1995, ("Lease") by and between HEBREW YOUNG MEN'S ASSOCIATION, INC., a Maryland non-profit corporation ("Lessor") and AMERICAN PCS, L.P., a Delaware limited partnership ("Lessee").

NOW THEREFORE, in consideration of the mutual covenants and agreements set forth below in this Lease, and for other good and valuable consideration, the parties hereto covenant and agree as follows:

### 1. Premises.

- (a) Lessor is the owner of the real property described in Exhibit A annexed hereto ("Property"). Lessor agrees to lease to Lessee certain space within the Property, depicted in Exhibit B annexed hereto ("Premises") upon the terms and conditions hereinafter set forth; and Lessor hereby grants to Lessee the right to erect, install, operate, maintain, repair and replace on the Premises (i) a monopole or self-supporting tower, not to exceed one hundred ninety nine (199) feet in height ("Antenna Tower") and (ii) a pre-fabricated building not to exceed two hundred fifty (250) square feet in area ("Building"). The Antenna Tower and Building shall house and contain the equipment described on Exhibit C annexed hereto ("Communications Equipment"). The Antenna Tower and Communications Equipment are sometimes hereinafter collectively referred to as "Equipment".
- (b) Lessor also grants to Lessee a non-exclusive easement over so much of the Property as is reasonably necessary for (i) access to the Premises by vehicle and foot and (ii) the installation, maintenance, repair and replacement of requisite wires, cables, conduits and pipes for the installation, operation and maintenance of the Antenna Tower and Equipment. Such installation shall be performed in a workmanlike manner with minimal disruption to Lessor and any affected tenants of the Property. Upon Lessee's request, Lessor shall execute and deliver requisite recordable documents evidencing the foregoing easement and any easement for utilities created pursuant to the provisions of Section 8(b) of this Lease.

2. Use. The Premises shall be used by Lessee in connection with the business of operating a personal communications service ("PCS") system licensed by the Federal Communications Commission ("FCC"), and for no other use whatsoever.

3. Permits and Approvals. Upon request, Lessor agrees to cooperate with Lessee in obtaining, at Lessee's expense, any licenses, permits and other approvals required by any federal, state or local authority for Lessee's use of the Premises and/or the installation and use of the Equipment and the Building ("Approvals").

4. Term. The initial term of this Lease shall be ten (10) years ("Initial Term"), commencing on the first date of the month following the date all permits required for construction and operation of the Antenna Tower have been issued ("Commencement Date"). This Lease shall automatically be renewed, without need of any further documentation, for two (2) successive five-year terms ("Renewal Terms") unless Lessee provides Lessor with notice of its intention not to renew at least ninety (90) days prior to the expiration of the Initial Term or the then Renewal Term.

### 5. Rent.

- (a) Monthly rental for the Premises shall be [REDACTED] for the Initial Term, paid to Lessor at its address set forth in the Notice Section hereof, or such other address as may be designated by Lessor in writing. The first three (3)



months' rent of the Initial Term shall be paid on the Commencement Date and, thereafter, the monthly rent for subsequent months shall be paid in advance on the first day of each month.

- (b) On each anniversary of the Commencement Date, Lessee shall pay the then current rent, increased by an amount equal to three percent (3%) of the rent for the previous year.
- (c) Rent shall be prorated for any partial month at the beginning or end of the term of this Lease.

6. Compliance with Law. Lessee shall install and operate the Equipment and use the Premises in a manner which shall comply with all federal, state and local regulations governing the installation and operation thereof.

7. Survey Period. After the execution date of this Lease and prior to the Commencement Date, Lessee shall have access to the Premises for the purpose of performing necessary engineering surveys, inspections and other reasonably necessary tests relating to Lessee's proposed use of the Premises. Lessee shall fully restore to its prior condition any portion of the Premises disturbed by Lessee and shall reimburse Lessor for any cost related to Lessee's damage to the Property.

8. Improvements, Liability, Utilities, Access.

- (a) At Lessee's sole cost and expense and with minimal disruption to Lessor, Lessee may construct and install the Antenna Tower, the Building and any supporting structures on the Premises. Lessee, at its sole cost and expense and with minimal disruption to Lessor, shall install a fence surrounding the Premises and shall plant trees and shrubs, in sufficient amount, to screen the base of the Antenna Tower and the Building from view. In connection therewith, Lessee may perform all work necessary to prepare, maintain and alter the Premises for operation of the Equipment. Notwithstanding any affixation to the Premises, title to the Equipment, the Building and all structures, transmission lines, cables, wires, and conduits associated therewith shall remain with Lessee, and Lessor waives any lien rights it may have concerning the Equipment and the Building. Lessee shall remove all or part of the Equipment at its sole expense on or before the expiration or earlier termination of the Lease and shall make any necessary repairs to the Premises, wear and tear excepted, caused by such removal.
- (b) Lessor shall approve Lessee's construction plan drawings reflecting plans and specifications for installation of the Equipment ("Drawings") within seven (7) days of submission of the Drawings. If Lessor does not approve the Drawings within seven (7) days or provide reasons for its disapproval within seven (7) days, the Drawings shall be deemed approved.
- (c) At Lessee's expense, Lessee may upgrade the present utilities or install new utilities on the Premises, including, but not limited to a standby power generator for Lessee's exclusive use. Lessee may also bring utilities across the Property in order to service the Premises and Lessor shall be responsible to contract directly with the utility company for electrical power.
- (d) Lessor shall provide to Lessee, Lessee's employees, agents, independent contractors and subcontractors access over the Property to the Premises twenty four (24) hours a day, seven (7) days a week, at no charge to Lessee. Lessee shall not perform any routine work during funeral processions which shall occur from time to time at Lessor's Property, and shall indemnify Lessor for any damages which may occur as a result of a breach of this provision.
- (e) In the event Lessee is bought, sold, acquired, merged, joined with in the form of a partnership, or changes its name to another name, such transaction shall be subject to this Lease and Lessor's rights hereunder and the provisions of this Lease shall remain in full force and effect with any changes including, but not limited to, the corporate status of Lessee which may occur.

9. Non-Disturbance. In the event the Property is encumbered by a mortgage, Lessor, immediately after this Lease is executed, will request that the holder of each such mortgage execute a non-disturbance agreement, to be prepared by Lessee, and cooperate with Lessee toward such end to the extent that such cooperation does not cause Lessor additional financial liability or administrative expense.

10. Sale or Mortgage of Property. Should Lessor, at any time after the execution date of this Lease, decide to sell, mortgage or encumber all or any part of the Property, such sale shall be subject to this Lease and Lessee's rights hereunder.

11. Termination. This Lease may be terminated as follows:

- (a) by either party, upon default of any covenant or term of this Lease by the other party, which default is not cured within thirty (30) days of receipt of written notice, provided that the cure period for any monetary default is ten (10) days from receipt of notice. During the continuance of any default after such notice and cure period, the non-defaulting party may terminate this Lease by giving notice of termination to the defaulting party, and the non-defaulting party may exercise any other remedies it may have under this Lease or at law;
- (b) by Lessee, without further liability, upon providing notice to the Lessor
  - (i) if Lessee's is unable to obtain or maintain any Approval; or
  - (ii) if Lessee determines that any of the Equipment cannot be used without interference from, or causing any undue interference to, other property or equipment in the area of the Property; or
  - (iii) if due to changed circumstances, Lessee determines that for technological reasons, the Premises are no longer suitable for their intended purpose;
- (c) by Lessee, without further liability under this Lease, upon providing notice if the Premises or Equipment are destroyed or damaged and rendered unsuitable for normal use. In such event, all rights and obligations of the parties shall cease as of the date of the damage or destruction.

12. Insurance. Lessee shall procure, maintain, and pay for a public liability policy, with limits of \$1,000,000 for bodily injury, \$1,000,000 for property damage, \$2,000,000 aggregate, with a certificate of insurance to be furnished to Lessor within thirty (30) days of written request. Such policy shall provide that termination or cancellation will not occur without at least fifteen (15) days prior written notice to Lessor.

13. Title, Authority and Quiet Enjoyment. Lessor hereby represents and warrants that (i) it holds good and marketable title to the Property, (ii) it has full authority to enter into and execute this Lease, and (iii) provided that Lessee has made rental payments as required hereunder, Lessee shall have quiet enjoyment of the Premises.

14. Notices. All notices, requests, demands and other communications hereunder shall be in writing and shall be deemed validly given if personally delivered, sent via overnight courier providing proof of service, or sent by certified mail, return receipt requested, as follows (or any other address that the party to be notified may designate by like notice to the sender).

If to Lessor:

HEBREW YOUNG MEN'S ASSOCIATION, INC.  
111 Park Avenue, Sutton Place  
Baltimore, MD 21201  
Attention: Phillip C. Levin, Esquire

If to Lessee:

AMERICAN PERSONAL COMMUNICATIONS  
6901 Rockledge Drive, Suite 600  
Bethesda, MD 20817  
Attention: Legal Counsel

15. Assignment; Sublease.

- (a) Lessee may, upon notice, assign or transfer its rights and obligations arising under this Lease to any corporation, partnership or other entity which (i) is controlled by, controlling or under common control with Lessee, (ii) shall merge or consolidate with or into Lessee, or (iii) shall succeed to all or substantially all the assets, property and business of Lessee.
- (b) Lessee shall have the right to sublease or license a portion of the Premises, depicted in Exhibit B, and/or antenna mounting space on the Antenna Tower to other communications users for the placement of their equipment. Lessee shall provide Lessor with a copy of the sublease or license agreement upon execution, or within fifteen (15) days thereof. In connection therewith, such new users shall be required to secure any governmental approvals required to locate on the Antenna Tower and shall have a structural analysis performed by a licensed engineer showing that the Antenna Tower can accommodate such user's antennas or dishes. Lessee shall be entitled to all revenues from the sublease or license of space on the Antenna Tower and Lessor shall be entitled to share in all such revenues Lessee receives from each sublessee or licensee, in an amount equal to forty percent (40%). Such payment shall be due and payable to Lessor, without setoff, within thirty (30) days of Lessee's receipt of the revenue payment by any sublessee or licensee. Lessee shall be responsible for insuring that there shall be no interference from any licensee's or sublessee's equipment to Lessor, other lessees with tenancies and rights to install telecommunications equipment pre-dating the execution date of this Lease, or other pre-existing property and equipment in the area of the Property. Lessee shall indemnify and hold Lessor harmless from any fines caused by Lessee's, any sublessee's or any licensee's failure to comply with federal, state and local regulations, non-interference, and the terms of this Lease.

16. Successors and Assigns. This Lease shall run with the Property. Lessee shall have the right to submit this Lease, or a Memorandum of Lease which Lessor agrees to execute and acknowledge, for recordation to the appropriate governmental agency having jurisdiction over the Property. This Lease shall be binding upon and inure to the benefit of the parties, their respective successors and assigns.

17. Taxes. Lessor warrants that it is exempt from all federal, state, local and county real estate taxes. In the event Lessee's installation of its Equipment causes an assessment of personal property taxes or real property taxes against Lessor due solely to Lessee's use of the Property, then and only in that event, Lessee shall solely be responsible for the payment, within thirty (30) days of receipt of an invoice, of such personal property tax or real property tax imposed by any federal, state, county or local government.

18. Legal Fee. Lessee agrees to pay Lessor a non-refundable fee of ONE THOUSAND DOLLARS (\$1,000.00) upon Lessor's execution of this Lease for legal expenses incurred pursuant to the legal review of this Lease. This fee is not a part of the rent otherwise provided for herein.

19. Miscellaneous. This Lease constitutes the entire agreement between the parties and supersedes all prior written and verbal agreements, representations, promises or understandings between the parties hereto. Any amendments to this Lease must be in writing and executed by both parties. If any provision of this Lease is invalid or unenforceable with respect to any party, the remainder of this Lease or the application of such

provision to persons other than those as to whom it is held invalid or unenforceable, shall not be affected and each provision of this Lease shall be valid and enforceable to the fullest extent permitted by law.

IN WITNESS WHEREOF, The parties hereto, consenting to be legally bound, have placed their hands and seals below as of the date set forth hereinabove.

LESSOR:  
HEBREW YOUNG MEN'S ASSOCIATION

By: David P. Klein

Its: PRESIDENT

LESSEE:  
AMERICAN PCS, L.P.

By: W. Scott Schelle

Its: Chief Executive Officer

**EXHIBIT A**  
**Property**

1. The street address of the Property is:

5830 Windsor Mill Road  
Woodlawn, Maryland 21207

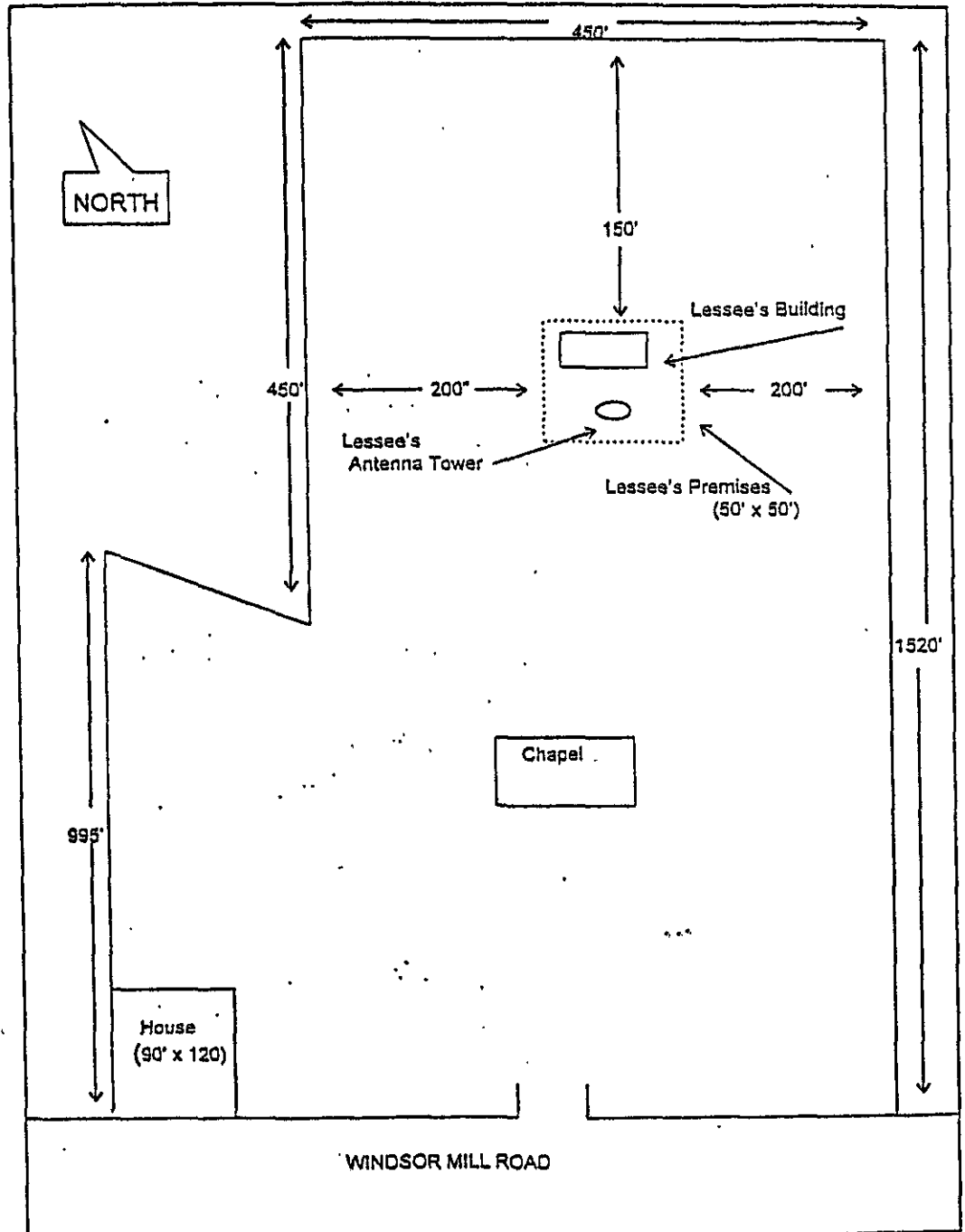
2. The Property is recorded in the land records of Baltimore County Maryland.

- a. Map No. 88
- b. Grid No. 21
- c. Parcel No. 485
- d. Legal Description: 9.844 AC NS  
Windsor Mill Rd
- e. Deed Reference: 959 / 171

**EXHIBIT B**  
**Premises**

The Premises shall consist of the following:

1. Ground space measuring approximately 50' in length by 50' in width, or that which is sufficient to accommodate the Antenna Tower and Building.



[An as-built drawing depicting the Premises shall replace this Exhibit (not drawn to scale)].

**EXHIBIT C**  
**Communications Equipment**

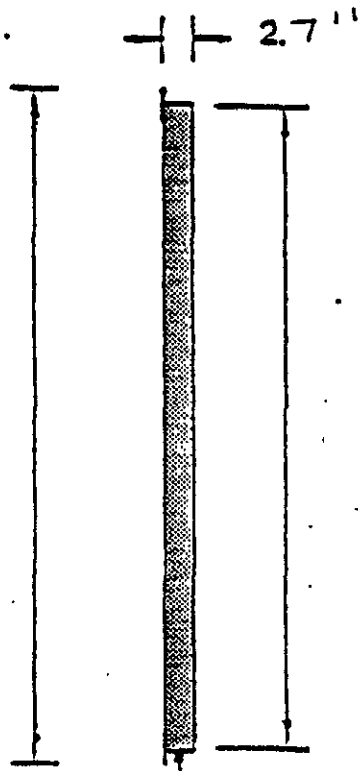
1. The Antenna Tower shall contain antennas, dishes, antenna mounts, and associated wiring and cabling.
2. The Building shall contain communications equipment and appurtenances associated therewith.



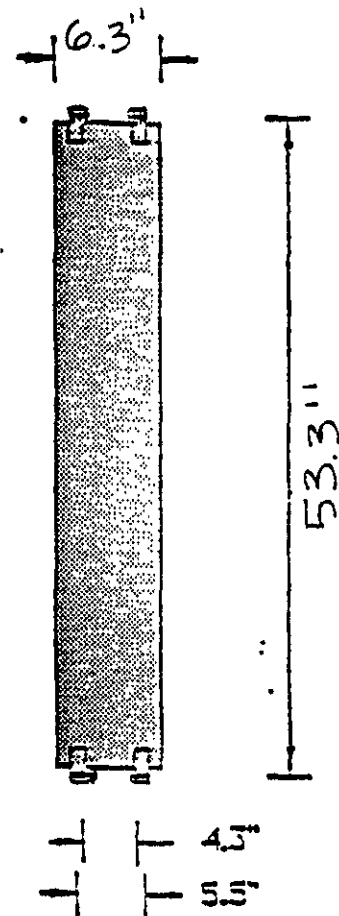


# PANEL ANTENNA

SIDE VIEW



REAR VIEW



TOP VIEW



$F_1$

$F_2$

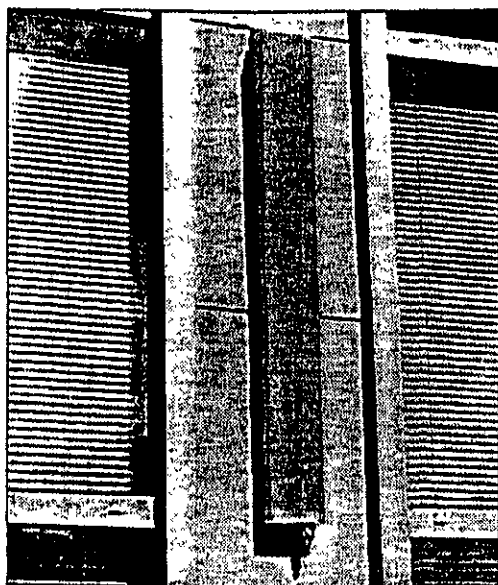
WIND LOAD (at 100 mph)

$F_1$ (N)	363 N
$F_2$ (N)	160 N

PLANCHE

## Model 58000 / 58010 92°, 15 dBd PCS Panel

(a member of the DAPA QuintStar™ family of PCS panels)

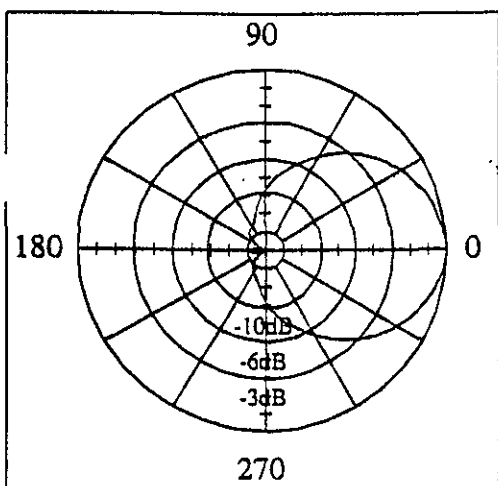


### GENERAL CHARACTERISTICS

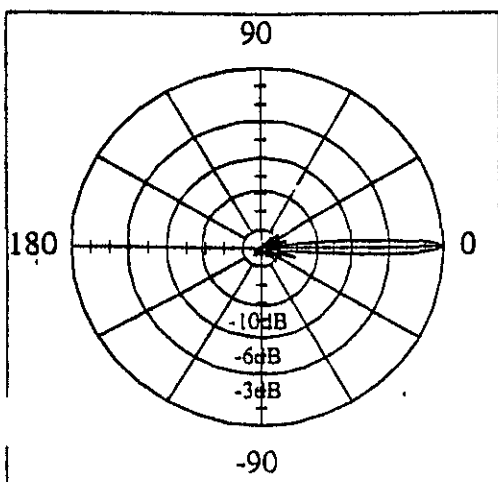
Frequency Range	1710 - 1990 MHz
Impedance	50 $\Omega$
VSWR	< 1.5:1
Polarization	Vertical
Rated Power	500 W

### ELECTRICAL CHARACTERISTICS

Beamwidth:	H-plane	92° $\pm$ 3° (at -3 dB)
	E-plane	7° $\pm$ 1° (at -3 dB)
Maximum / Minimum Gain		15 dBd / 14 dBd
Electrical Downtilt		0° (available -1° to -15°)
Side Lobes		< -15 dB
Front-to-Back Ratio		< -25 dB



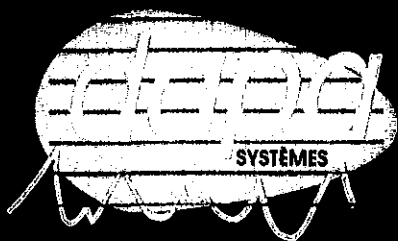
H-plane



E-plane

### MECHANICAL CHARACTERISTICS

Height x Width x Depth	53.3" x 6.3" x 2.7" (1353 x 159 x 68 mm)
Weight	11 lbs (5 kg)
Wind Survival Rating	125 mph (200 km/h)
Wind Load (at 100 mph)	363 N (frontal F <sub>1</sub> ) 160 N (lateral F <sub>2</sub> )
Flat Plate Equivalent Area	2.31 ft <sup>2</sup> (0.22 m <sup>2</sup> )
Connector Types	Type N, or 7/16 DIN
Antenna Material	Aluminum / ABS



# PCS PANEL ANTENNAS

59010 90° 16.4 dBi



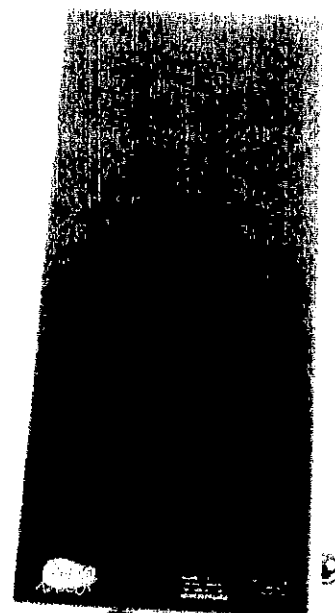
48010 60° 16.6 dBi



56010 90° 13.5 dBi



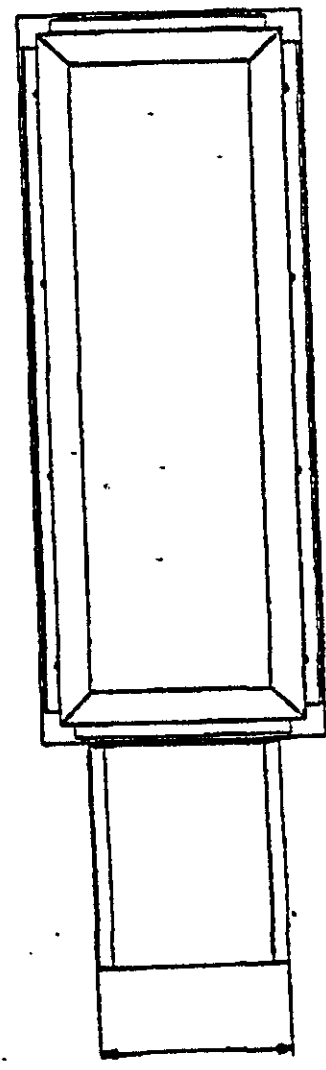
44010 60° 12.5 dBi



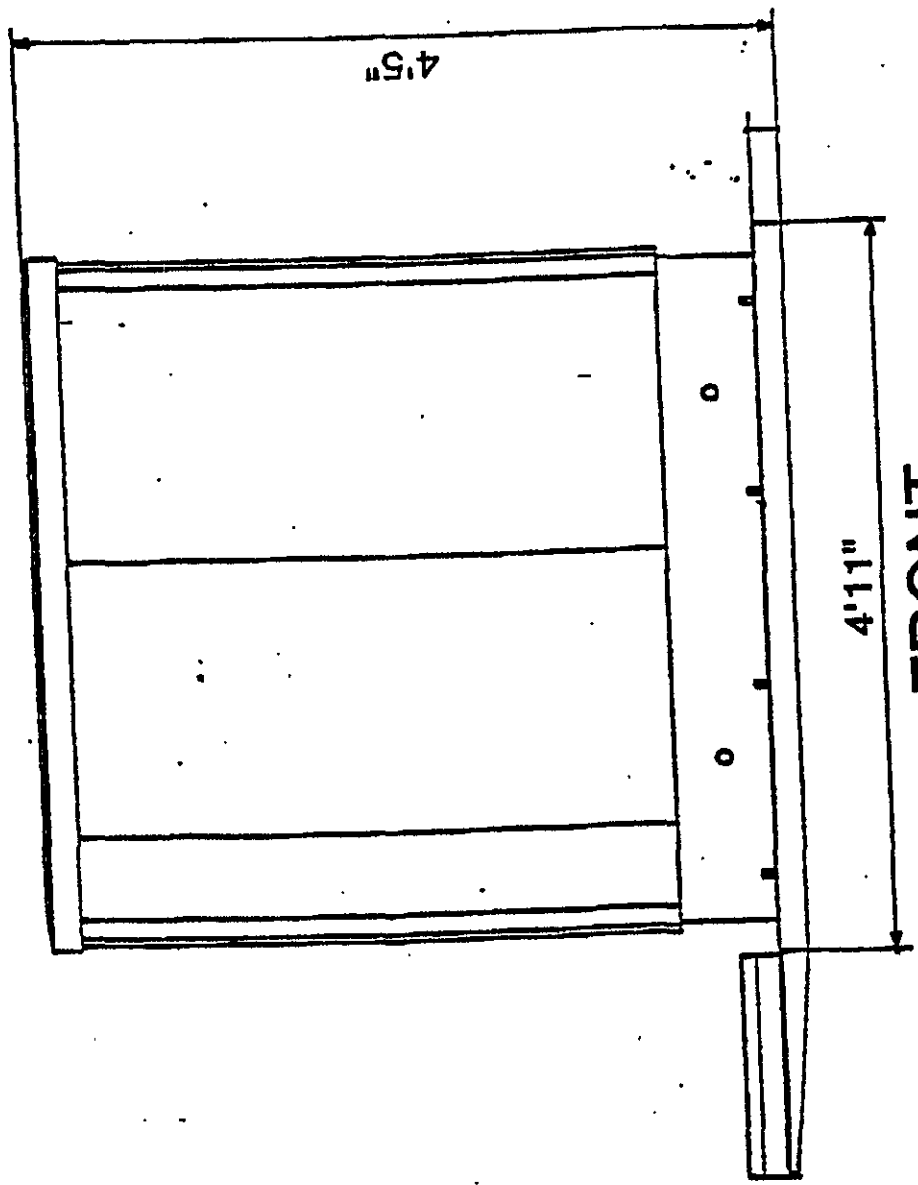


# EQUIPMENT CABINET

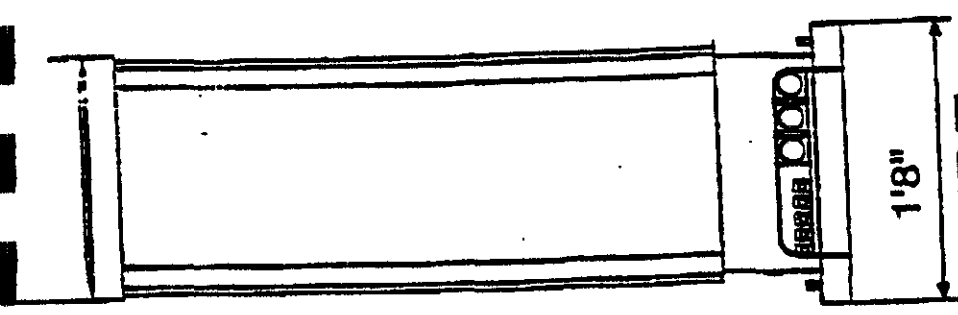
TOP



FRONT



SIDE



## 1.2 OUTDOOR MINIBTS

### 1.2.1

#### *Cabinet Dimensions*

The cabinets dimensions are (W x H x D):  $1.4 \times 1.35 \times 0.5 \text{ m}^3$

The Outdoor MiniBTS consists of a base cabinet which may be used as a single cabinet or connected to one expansion cabinet. The dimensions of the cabinet are:

Height:	1.35 m	(4'5")
Width:	1.5 m	(4'11")
Depth:	0.5 m	(1'8")

The cabinets are provided with a 200mm (8") high plinth which holds the batteries. The plinth can be buried in case of road side installation.

### 1.2.2

#### *Weight*

The following table give the weight for typical outdoor MiniBTS configurations (batteries weight required for a 2 hours back up time for all configurations):

(a MiniBTS configuration is typically shipped fully equipped)

MiniBTS outdoor	Without batteries	With batteries
BTS 1 TRX	357 kg/787 lb.	445 kg/981 lb.
BTS 2 TRX	375 kg/827 lb.	463 kg/1021 lb.
BTS 3 TRX	392 kg/864 lb.	480 kg/1058 lb.
BTS 4 TRX (Only Expansion Cabinet)	Expans. cab.: 398 kg/877 lb.	Expans. cab.: 486 kg/1071 lb.

The floor loading of a fully equipped cabinet does not exceed  $7 \text{ kN/m}^2$  (Uniform Distributed Load (UDL) based on the footprint of  $1500 \text{ mm} \times 500 \text{ mm}$ ).

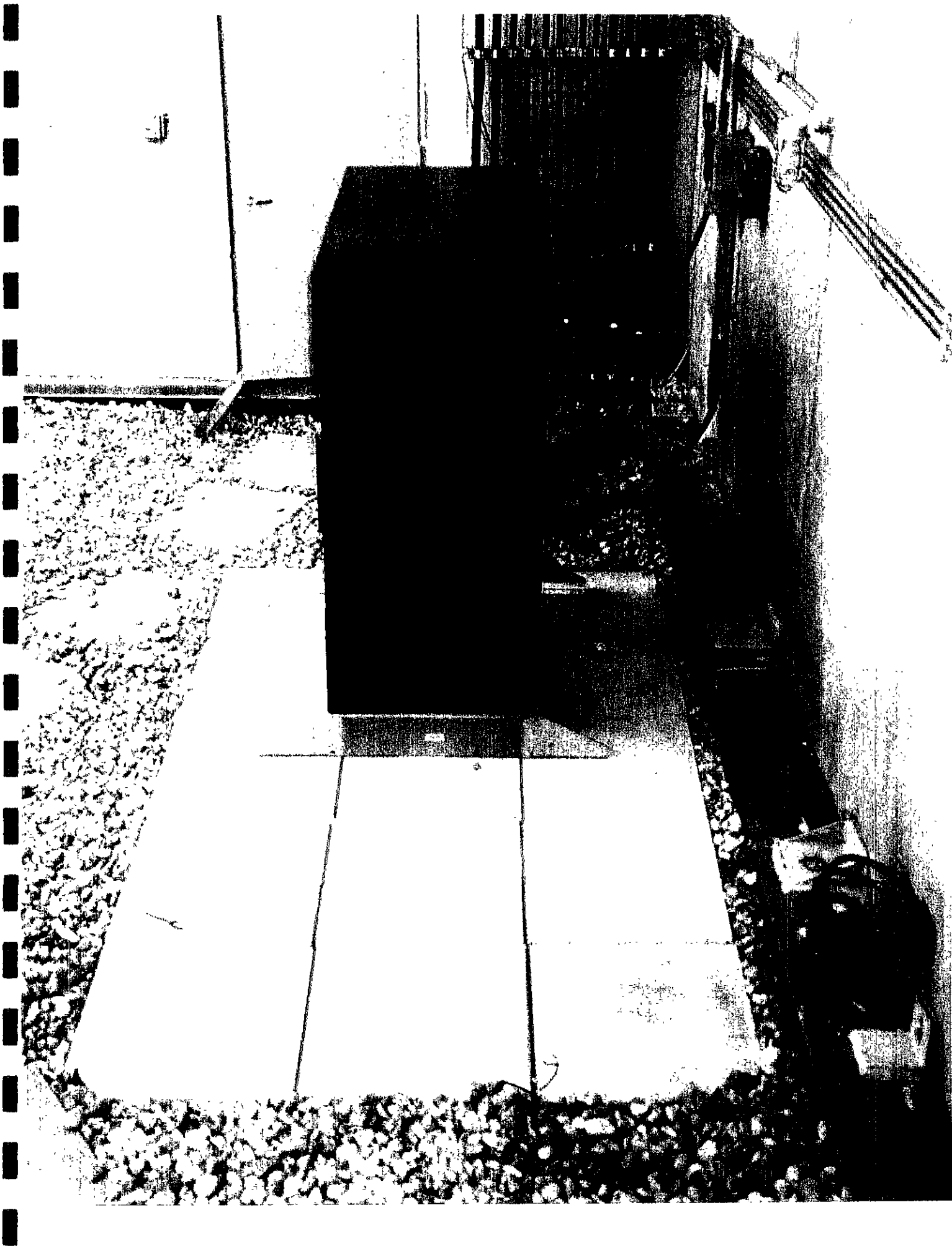
It is recommended that if installed in an indoor location, the site floor should be able to handle an average floor load of  $600 \text{ daN/m}^2$ .

### 1.2.3

#### *Clearance*

For the MiniBTS the operational clearance is 1.5 m/5' on the front side and 300 mm/11.8" on the back side. As all external connections are from a side compartment located on the left of the cabinet, a 1m/3' clearance is also required on the left side of the cabinet. The spacing required at the top of the cabinet (to the ceiling) need be no greater than 500 mm. -











United States of America  
Federal Communications Commission

**RADIO STATION AUTHORIZATION**  
Commercial Mobile Radio Services  
Personal Communications Service - Broadband

American Personal Communications  
One Democracy Center  
6901 Rockledge Drive  
Suite 600  
Bethesda, Maryland 20817

Call Sign: KNLF200  
Market: M10  
Washington-Baltimore  
Frequency Block: A  
File Number: 15000-CW-L-94

The licensee hereof is authorized, for the period indicated, to construct and operate radio transmitting facilities in accordance with the terms and conditions hereinafter described. This authorization is subject to the provisions of the Communications Act of 1934, as amended, subsequent Acts of Congress, international treaties and agreements to which the United States is a signatory, and all pertinent rules and regulations of the Federal Communications Commission, contained in Title 47 of the U.S. Code of Federal Regulations.

Initial Grant Date . . . . . December 13, 1994  
Five-year Build Out Date . . . . . December 13, 1999  
License Expiration Date . . . . . December 13, 2004

**CONDITIONS:**

Pursuant to Section 309(h) of the Communications Act of 1934, as amended, (47 U.S.C. § 309(h)), this license is subject to the following conditions: This license does not vest in the licensee any right to operate a station nor any right in the use of frequencies beyond the term thereof nor in any other manner than authorized herein. Neither this license nor the right granted thereunder shall be assigned or otherwise transferred in violation of the Communications Act of 1934, as amended (47 U.S.C. §§ 151, *et seq.*). This license is subject in terms to the right of use or control conferred by Section 706 of the Communications Act of 1934, as amended (47 U.S.C. § 606).

This authorization requires that American Personal Communications shall construct a 30 MHz broadband Personal Communications Services system on Frequency Block A (1850-1865 MHz/1930-1945 MHz) in the Washington-Baltimore MTA that substantially uses the design and technology upon which the pioneer's preference award to American Personal Communications was based. This condition expires upon meeting the five-year build-out requirement in 47 C.F.R. § 24.203(a).

This authorization requires that American Personal Communications shall retain control of the license for at least three years from the initial license grant date or until the grantee has met the five-year build-out requirement of 47 C.F.R. § 24.203(a).

CONDITIONS Con't:

This authorization requires that American Personal Communications shall pay to the United States Treasury an amount equal to eighty-five percent (85%) of the adjusted value of its license calculated in accordance with Section 801 of the Uruguay Round Agreements Act of 1994, Pub. L. No. 103-465, Title VIII, 108 Stat. 4809 (enacted Dec. 8, 1994) (to be codified at 47 U.S.C. § 309 (j)(13)) and with a subsequent order specifying payment procedures and amounts thirty (30) days after the Memorandum Opinion and Order, FCC 94-318, and the order granting American Personal Communications a pioneer's preference become final orders, that is, the orders are no longer subject to administrative reconsideration or judicial review, appeal, or stay.

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WAIVERS:

No waivers associated with this authorization.



*Jules Cohen, P.E.*  
*Consulting Engineer*

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**RADIO FREQUENCY EXPOSURE CONSIDERATIONS  
APPLICABLE TO PERSONAL COMMUNICATIONS SYSTEM  
BASE STATIONS**

Pursuant to a request from American Personal Communications (APC), a study has been made of the radio-frequency exposure considerations applicable to Personal Communications System base stations. The results of that study are provided below.

As described more fully below, the conclusion of the study is that the maximum level of exposure to radio-frequency energy for a person walking or standing at ground level in the near vicinity of the elevated PCS base station antenna would be far below the maximum permissible exposure set by the American National Standards Institute (ANSI) in 1992. That standard (*ANSI/IEEE Standard for Safety Levels with Respect to Human Exposure to Radio Frequency Electromagnetic Fields, 3 kHz to 300 GHz*) is known as ANSI/IEEE C95.1-1992.

In the opening paragraph of ANSI/IEEE C95.1-1992, the statement is made: "Recommendations are made to prevent harmful effects in human beings exposed to electromagnetic fields in the frequency range from 3 kHz to 300 GHz. These recommendations are intended to apply to exposures in controlled, as well as uncontrolled, environments." The Federal Communications Commission, the Federal Government licensing agency for non-government users of the radio-frequency spectrum, has proposed adopting ANSI/IEEE C95.1-1992 as its environmental guide, replacing the 1982 ANSI standard.

The 1992 standard was prepared by a committee with about 125 participants. The committee included biologists, medical doctors, physiologists, medical statisticians and engineers from academia, government and industry, with industry participants being in the

*Jules Cohen, P.E.*  
*Consulting Engineer*

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minority. In arriving at its conclusions of maximum permissible exposure to radio-frequency fields, the scientific literature was reviewed and a determination made of that exposure level that appeared to be the threshold for the appearance of biological effects possibly harmful if exposure continued over a substantial period of time. An additional safety factor of fifty below the threshold level was applied for "uncontrolled" environments, that applicable to the general public.

Base stations operated by APC transmit in the frequency band 1930 to 1945 megahertz (millions of cycles per second - abbreviated as MHz) to mobile units. The maximum transmitter power output is only 20 watts. To provide satisfactory service, an antenna is used that directs the power toward the horizon, with very little power directed downward. The maximum equivalent power directed to the horizon is normally not in excess of 200 watts.

In addition to the transmission described in the above paragraph, some base sites are equipped with two microwave relay transmitters used to interconnect base sites. These systems use transmitter output of only 0.05 watt and operate at a frequency of approximately 38,000 MHz. The antennas used for the relay service are highly directional and make a negligible contribution to the total radio-frequency exposure at the sites where used.

Because of the low power used, and the direction of maximum radiation toward the horizon to maximize service, the exposure level, even directly below the antenna system of the base station is only a small fraction of the permitted level of 1.29 milliwatts per square centimeter ( $mW/cm^2$ ) specified by ANSI/IEEE for the uncontrolled environment. In the following tables, the calculated exposure level is shown at head height (six feet above ground) for three antenna heights likely to be used by APC.

*Jules Cohen, P.E.*  
*Consulting Engineer*

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RF EXPOSURE FROM PCS ANTENNA 100 FEET ABOVE GROUND LEVEL			
<u>Hor. Distance</u> (feet)	<u>Power Density</u> (mW/cm <sup>2</sup> )	<u>% of Uncontrolled</u> <u>MPE</u>	<u>Safety Factor</u>
0	0.000102	0.0079	635,000
10	0.000100	0.0078	642,000
30	0.000092	0.0071	699,000
50	0.000079	0.0061	815,000
100	0.000048	0.0037	1,360,000
200	0.000050	0.0039	1,300,000
300	0.000025	0.0019	2,620,000
400	0.000038	0.0030	1,690,000
500	0.000025	0.0019	2,620,000
1000	0.000011	0.0009	5,860,000
2000	0.000010	0.0007	6,450,000
3000	0.000006	0.0005	11,000,000
4000	0.000004	0.0003	16,000,000

*Jules Cohen, P.E.*  
*Consulting Engineer*

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RF EXPOSURE FROM PCS ANTENNA 125 FEET ABOVE GROUND LEVEL			
<u>Hor. Distance</u> (feet)	<u>Power Density</u> (mW/cm <sup>2</sup> )	<u>% of Uncontrolled</u> <u>MPE</u>	<u>Safety Factor</u>
0	0.000063	0.0049	1,020,000
10	0.000063	0.0049	1,030,000
30	0.000059	0.0046	1,090,000
50	0.000054	0.0042	1,200,000
100	0.000037	0.0029	1,740,000
200	0.000026	0.0020	2,460,000
300	0.000015	0.0012	4,310,000
400	0.000037	0.0029	1,750,000
500	0.000024	0.0019	2,650,000
1000	0.000006	0.0005	10,750,000
2000	0.000010	0.0007	6,450,000
3000	0.000006	0.0005	11,000,000
4000	0.000003	0.0003	19,000,000



*Jules Cohen, P.E.*  
*Consulting Engineer*

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RF EXPOSURE FROM PCS ANTENNA 150 FEET ABOVE GROUND LEVEL			
<u>Hor. Distance</u> (feet)	<u>Power Density</u> (mW/cm <sup>2</sup> )	<u>% of Uncontrolled</u> <u>MPE</u>	<u>Safety Factor</u>
0	0.000043	0.0033	1,500,000
10	0.000043	0.0033	1,500,000
30	0.000041	0.0032	1,560,000
50	0.000038	0.0030	1,680,000
100	0.000029	0.0023	2,220,000
200	0.000023	0.0018	2,760,000
300	0.000022	0.0017	2,940,000
400	0.000013	0.0010	4,800,000
500	0.000024	0.0018	2,710,000
1000	0.000006	0.0005	10,200,000
2000	0.000006	0.0004	11,000,000
3000	0.000004	0.0003	15,000,000
4000	0.000003	0.0003	19,000,000

*Jules Cohen, P.E.*  
*Consulting Engineer*

---

Engineering Report  
American Personal Communications

Page 6

Even in the main beam of the 1900 MHz antenna, a location not usually accessible, uncontrolled environment criteria are not exceeded until within about five feet of the antenna. Mounting of the antenna is necessarily such that interception of the maximum field is not possible for anyone other than maintenance personnel. An important criterion in designing the mounting arrangement, is that no obstructions may be introduced in the antenna's vicinity.

The conclusion of the study made is that operation of a base station, with antennas mounted as described, is well within the standards for exposure of humans to radio-frequency radiation. Those standards were promulgated to provide a safe environment for workers and the population at large.



Jules Cohen, P.E.

June 29, 1995





# NEWS

FEDERAL COMMUNICATIONS COMMISSION  
1919 M STREET, N.W.  
WASHINGTON, D.C. 20554

News media information 202 / 632-501  
Recorded listing of releases and texts  
202 / 632-0002

43428

This is an unofficial announcement of Commission action. Release of the full text of a Commission order constitutes official action. See MCI v. FCC, 515 F.2d 385 (D.C. Cir. 1974).

Report No. DC-2613

ACTION IN DOCKET CASE June 9, 1994

FCC ADOPTS MODIFICATIONS TO PCS BAND PLAN; CREATES SIGNIFICANT  
BENEFITS FOR CONSUMERS AND BUSINESSES  
(GEN DOCKET 90-314)

The Commission today unanimously modified its rules governing broadband Personal Communication Services (PCS). The modifications will result in lower prices for consumers in the form of decreased equipment and service charges, lower start-up costs for the industry and will have a significant impact in promoting a robust and competitive wireless marketplace, helping to create new jobs. Moreover, the Commission's action facilitates participation in the broadband PCS industry by small businesses, rural telephone companies, and businesses owned by women and minorities. The Commission took this action in response to 67 petitions for reconsideration or clarification of the rules and policies adopted last September in the Second Report and Order of this proceeding.

Personal Communications Services are the next generation of wireless communications that will help meet our ever more mobile society's rapidly growing demands for on-the-go communications. PCS will include small, lightweight multi-function portable phones, portable facsimile and other imaging devices, new types of multi-channel cordless phones, and advanced paging devices with two-way data capabilities. These new services and devices should significantly improve the flexibility and functionality of all telecommunications networks. They will make possible the vision of communications anytime, anywhere, to anyone.



Baltimore County  
Department of Permits and  
Development Management

Development Processing  
County Office Building  
111 West Chesapeake Avenue  
Towson, Maryland 21204

April 10, 1996

Ms. Christine K. McSherry, Esquire  
c/o Whiteford, Taylor & Preston  
210 W. Pennsylvania Avenue  
Towson, MD 21204

RE: Item No.: 346  
Case No.: 96-348-SPHXA  
Petitioner: Daniel Elkiw

Dear Ms. McSherry:

The Zoning Advisory Committee (ZAC), which consists of representatives from Baltimore County approval agencies, has reviewed the plans submitted with the above referenced petition, which was accepted for processing by Permits and Development Management (PDM), Zoning Review, on March 21, 1996.

Any comments submitted thus far from the members of ZAC that offer or request information on your petition are attached. These comments are not intended to indicate the appropriateness of the zoning action requested, but to assure that all parties (zoning commissioner, attorney, petitioner, etc.) are made aware of plans or problems with regard to the proposed improvements that may have a bearing on this case. Only those comments that are informative will be forwarded to you; those that are not informative will be placed in the permanent case file.

If you need further information or have any questions regarding these comments, please do not hesitate to contact the commenting agency or Joyce Watson in the zoning office (887-3391).

Sincerely,

A handwritten signature in dark ink, appearing to read "W. Carl Richards, Jr.", is written over a circular stamp that contains the same name.

W. Carl Richards, Jr.  
Zoning Supervisor

WCR/jw  
Attachment(s)

MICROFILMED



B A L T I M O R E   C O U N T Y ,   M A R Y L A N D

INTER-OFFICE CORRESPONDENCE

TO:     Arnold Jablon, Director  
         Permits and Development  
         Management

DATE:   March 21, 1996

FROM:   Pat Keller, Director  
         Office of Planning

SUBJECT:   Petitions from Zoning Advisory Committee

The Office of Planning has no comments on the following petition(s):

Item Nos. 340, 343, 346, and 349.

If there should be any further questions or if this office can provide additional information, please contact Jeffrey Long in the Office of Planning at 887-3480.

Prepared by:

*Jeffrey W. Long*

Division Chief:

*Gay L. Kerns*

PK/JL

Baltimore County Government  
Fire Department



700 East Joppa Road  
Towson, MD 21286-5500

Office of the Fire Marshal  
(410)887-4880

DATE: 03/21/96

Arnold Jablon  
Director  
Zoning Administration and  
Development Management  
Baltimore County Office Building  
Towson, MD 21204  
MAIL STOP-1105

RE: Property Owner: SEE BELOW

Location: DISTRIBUTION MEETING OF MAR. 25, 1996

Item No.: SEE BELOW

Zoning Agenda:

Gentlemen:

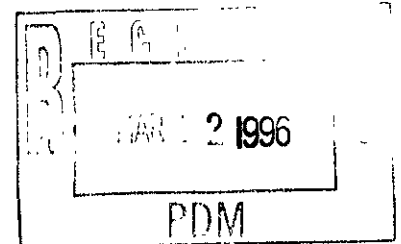
Pursuant to your request, the referenced property has been surveyed by this Bureau and the comments below are applicable and required to be corrected or incorporated into the final plans for the property.

8. The Fire Marshal's Office has no comments at this time,  
IN REFERENCE TO THE FOLLOWING ITEM NUMBERS: 343, 344, 345, (346), 347  
AND 349. ✓

REVIEWER: LT. ROBERT P. SAUERWALD  
Fire Marshal Office, PHONE 887-4881, MS-1102F

cc: File

RECORDED





**Maryland Department of Transportation  
State Highway Administration**

David L. Winstead  
Secretary  
Hal Kassoff  
Administrator

3-20-96

Ms. Joyce Watson  
Baltimore County Office of  
Permits and Development Management  
County Office Building, Room 109  
Towson, Maryland 21204

RE: Baltimore County  
Item No. 346(RT)

Dear Ms. Watson:

This office has reviewed the referenced item and we have no objection to approval as it does not access a State roadway and is not affected by any State Highway Administration projects.

Please contact Bob Small at 410-333-1350 if you have any questions.

Thank you for the opportunity to review this item.

Very truly yours,

Ronald Burns, Chief  
Engineering Access Permits  
Division

BS/es

My telephone number is \_\_\_\_\_

Maryland Relay Service for Impaired Hearing or Speech  
1-800-735-2258 Statewide Toll Free

Mailing Address: P.O. Box 717 • Baltimore, MD 21203-0717

MICROFILMED



B A L T I M O R E   C O U N T Y ,   M A R Y L A N D

I N T E R O F F I C E   C O R R E S P O N D E N C E

TO:        Arnold Jablon, Director  
            Department of Permits & Development  
            Management

Date:   April 1, 1996

FROM:     Robert W. Bowling, Chief  
            Development Plans Review Division  
            Department of Permits & Development  
            Management

SUBJECT:   Zoning Advisory Committee Meeting  
            for April 1, 1996  
            Item Nos. 344, (346), 347, 348, 349, 350

The Development Plans Review Division has reviewed the subject zoning item, and we have no comment.

RWB:jrb

cc:   File

RE: PETITION FOR SPECIAL HEARING	*	BEFORE THE
PETITION FOR SPECIAL EXCEPTION		
PETITION FOR VARIANCE	*	ZONING COMMISSIONER
NE/S Windsor Mill Road, 510'+/- NE of		
c/l Lorraine Avenue, 2nd Election	*	OF BALTIMORE COUNTY
District, 2nd Councilmanic		
	*	CASE NO. 96-348-SPHXA
Legal Owner: Hebrew Young Mens Sick Relief Assn.		
Contact Purchaser: American PCS, L.P.	*	
Petitioners		
* * * * *		

ENTRY OF APPEARANCE

Please enter the appearance of the People's Counsel in the above-captioned matter. Notice should be sent of any hearing dates or other proceedings in this matter and of the passage of any preliminary or final Order.

*Peter Max Zimmerman*

PETER MAX ZIMMERMAN

People's Counsel for Baltimore County

*Carole S. Demilio*

CAROLE S. DEMILIO

Deputy People's Counsel

Room 47, Courthouse

400 Washington Avenue

Towson, MD 21204

(410) 887-2188

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 18<sup>th</sup> day of April, 1996, a copy of the foregoing Entry of Appearance was mailed to Christine K. McSherry, Esquire, Whiteford, Taylor and Preston, 210 W. Pennsylvania Avenue, Towson, MD 21204, attorney for Petitioner.

*Peter Max Zimmerman*

PETER MAX ZIMMERMAN

MICROFILMED

Tam  
Hearney

WHITEFORD, TAYLOR & PRESTON  
L.L.P.

SEVEN SAINT PAUL STREET  
BALTIMORE, MARYLAND 21202-1626  
TELEPHONE 410 347-8700  
FAX 410 752-7092

210 WEST PENNSYLVANIA AVENUE  
TOWSON, MARYLAND 21204-4515  
410 832-2000  
FAX 410 832-2015

1025 CONNECTICUT AVENUE, NW  
WASHINGTON, D.C. 20036-5405  
TELEPHONE 202 659-6800  
FAX 202 331-0573

CHRISTINE K. MCSHERRY  
DIRECT NUMBER  
410 832-2027  
2038958@mcimail.com

1317 KING STREET  
ALEXANDRIA, VIRGINIA 22314-2928  
TELEPHONE 703 836-5742  
FAX 703 836-0265

April 3, 1996

The Honorable Lawrence D. Schmidt  
Zoning Commissioner for Baltimore County  
Office of Planning and Zoning  
Old Courthouse, Room 112  
400 Washington Avenue  
Towson, Maryland 21204

**Re: Case No. 96-348 SPHXZ (Item 346)**  
**Hebrews Young Men Sick Relief Association**

Dear Mr. Schmidt:

Enclosed you will find the Certificate of Publication stating that the public hearing on the above-referenced matter scheduled for Wednesday, April 17, 1996 at 9:00 a.m. has been advertised in *The Jeffersonian* during the week of March 28, 1996. Please accept this certificate as verification that the hearing has been properly advertised.

If you have any questions or comments, please feel free to call me.

Sincerely,

Chris McSherry  
Christine K. McSherry

CKM:sl  
Enclosure

74430

**WHITEFORD, TAYLOR & PRESTON  
L.L.P.**

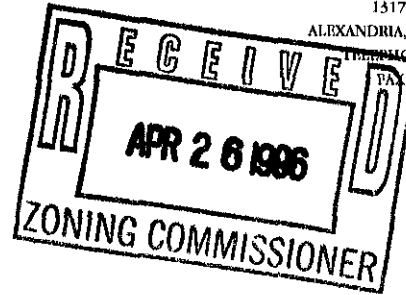
SEVEN SAINT PAUL STREET  
BALTIMORE, MARYLAND 21202-1626  
TELEPHONE 410 347-8700  
FAX 410 752-7092

210 WEST PENNSYLVANIA AVENUE  
TOWSON, MARYLAND 21204-4515  
410 832-2000  
FAX 410 832-2015

1025 CONNECTICUT AVENUE, NW  
WASHINGTON, D C 20036-5405  
TELEPHONE 202 659-6800  
FAX 202 331-0573

30 COLUMBIA CORPORATE CENTER  
10440 LITTLE PATUXENT PARKWAY  
COLUMBIA, MARYLAND 21044  
TELEPHONE 410 884-0700  
FAX 410 884-0719

CHRISTINE K. MCSHERRY  
DIRECT NUMBER  
410 832-2027  
2038958@mcimail.com



1317 KING STREET  
ALEXANDRIA, VIRGINIA 22314-2928  
TELEPHONE 703 836-5742  
FAX 703 836-0265

April 25, 1996

**Via Hand Delivery**

Timothy M. Kotroco, Deputy Zoning Commissioner  
Zoning Commissioner's Office  
400 Washington Avenue  
Towson, Maryland 21204

**Re: Hebrew Young Mens Cemetary  
Special Exception and Variance Petitions**

Dear Tim:

Enclosed you will find the revised site plans for this special exception and variance petition. As we discussed at the hearing, we have relocated the monopole on the site. It is no longer centered between the two side property lines, but rather is placed 300 feet from the property line closest to the Streamwood Development. Consequently, we would like to request that you revise our variance petition to request a variance of 60 feet in lieu of the required 300 feet from the side lot line.

If you require any further information on this revised site plan, please feel free to call me. Thank you for your assistance.

Sincerely,

*Chris*

Christine K. McSherry

CKM:sll  
Enclosures

PLEASE PRINT CLEARLY

BALTIMORE COUNTY REPRESENTATIVES  
SIGN-IN SHEET

NAME

ADDRESS

Christine K. McSherry  
Andrew Werchniak

WIT4D 210 W. Pennsylvania  
MLS, Inc. 1110 N. Glebe Rd. Suite 800  
Arlington, VA 22201

Kevin L. Mason

Vento Communications, 1110 N. Glebe  
Rd. Suite 850, Arlington, VA 22201

Greg Sarro

6961 Rockledge Dr. Bethesda,  
MD 20817

BOB MORELOCK

DMWL, Inc.  
200 E. PENNA. AVE  
TOWSON, MD 21286



MICROFILMED

PLEASE PRINT CLEARLY

CITIZEN SIGN-IN SHEET

NAME

ADDRESS

JOSEPH E. BRIMMER  
DELA RAITA INC.

1370 LAMBERTON DRIVE  
SILVER SPRING, MD. 20902

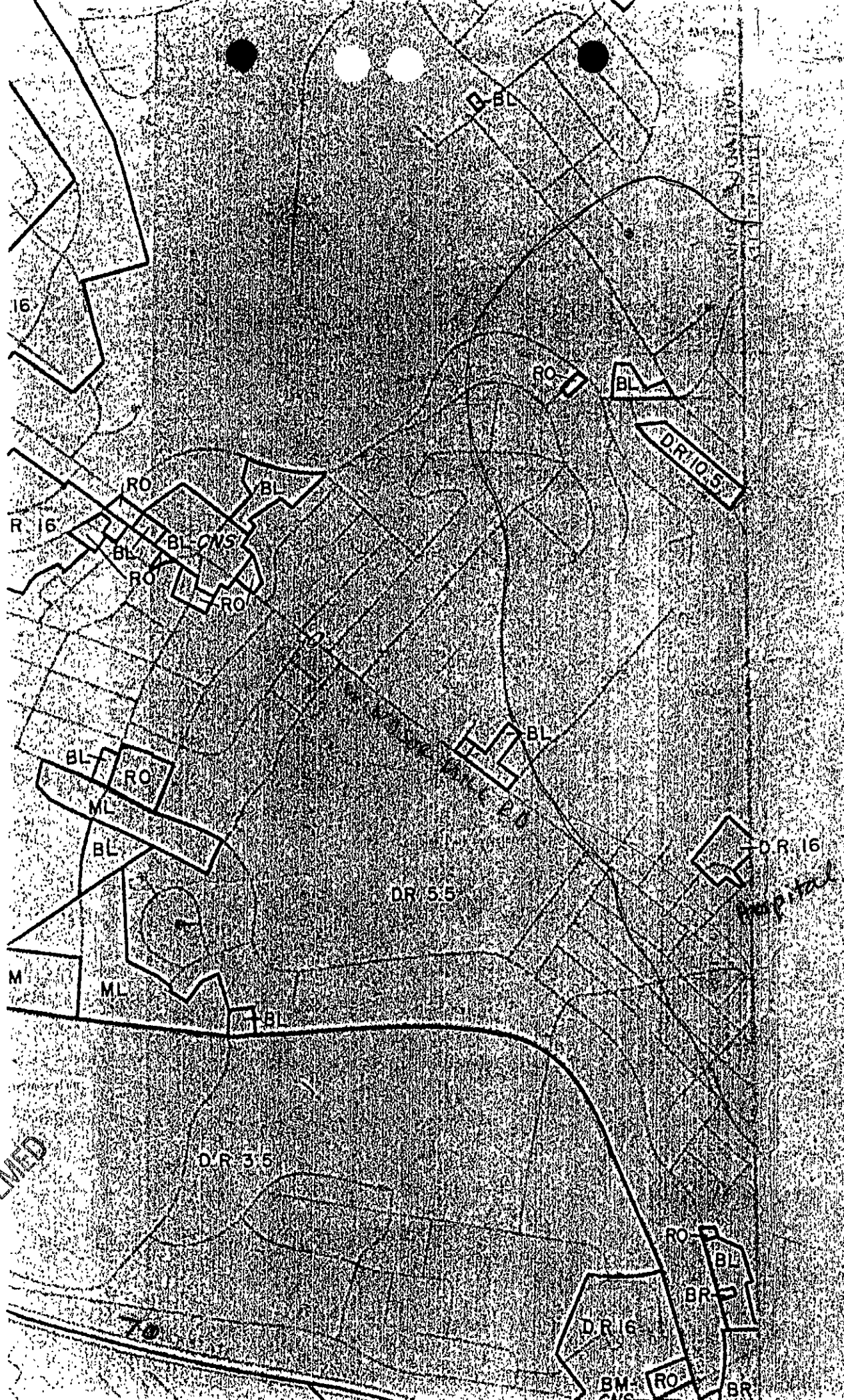
Alfred Williamson  
Adj. Prop. owner

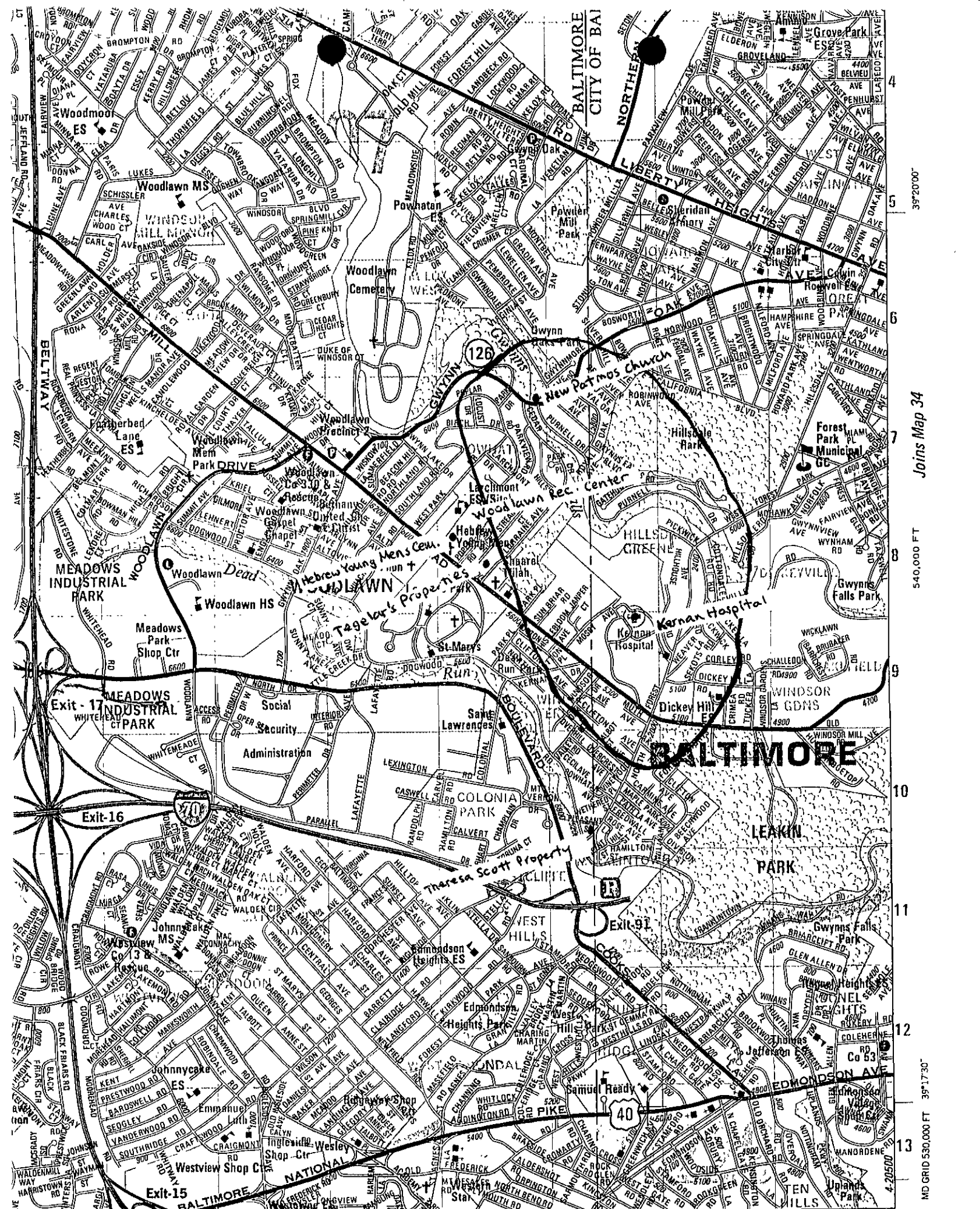
1231 Providence Rd  
TOWSON, Md. 21286

MICROFILMED

Pet Ex #4

MICROFILMED







IN RE: PETITIONS FOR SPECIAL HEARING, \* BEFORE THE  
SPECIAL EXCEPTION & VARIANCE - N/S \* DEPUTY ZONING COMMISSIONER  
Windsor Mill Road, 510' NW of the c/l of Lorraine Avenue  
(Lorraine Park Cemetery) \* OF BALTIMORE COUNTY  
2nd Election District \* Case No. 96-348-SPHZA  
2nd Councilmanic District \*  
Hebrew Young Mens Sick Relief Association - Petitioners

**FINDINGS OF FACT AND CONCLUSIONS OF LAW**

This matter comes before the Deputy Zoning Commissioner as Petitions for Special Hearing, Special Exception and Variance for the property identified above, known as the Lorraine Park Cemetery, which is located in the vicinity of Gwynn Oak Avenue in Woodlawn. The Petitions were filed by the owners of the property, Hebrew Young Mens Sick Relief Association, by Daniel Elkin, President, and the Contract Purchaser/Lessee, American PCS, L.P., by Margaret C. Ruggieri, Esquire, through their attorney, Christine K. McSherry, Esquire. The Petitioners seek approval of a wireless transmitting and receiving facility on the subject property as a use in combination with an existing cemetery, a special exception to permit a cemetery and a wireless transmitting and receiving facility on the subject site, and variance relief from Section 502.7.C.2 of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit property line setbacks of 150 feet to the west, 197 feet to the east, and 210 feet to the north, all in lieu of the required 300 feet each for the proposed facility. The subject property and relief sought are more particularly described on the site plan submitted which was accepted and marked into evidence as Petitioner's Exhibit 1.

Appearing at the hearing on behalf of the Petitions were Greg Sarro, a representative of American PCS, L.P., the Contract Lessee, Andrew Worchniak, an electrical engineering consultant with Moffitt, Larsen, and

Jenkins, Bob Morelock, Registered Landscape Architect with Daft-McQuine-Walker, Inc., who prepared the site plan for this project, and Kevin Mason, a representative of Vento Communications. The Petitioners were represented by Christine K. McSherry, Esquire. Appearing as interested citizens were Joseph E. Brimmer and Alfred Williamson, owners of adjoining property.

Testimony and evidence offered revealed that the subject property consists of 9.54 acres, more or less, zoned D.R. 5.5 and is the site of the Lorraine Park Cemetery. The property has been utilized as a cemetery since prior to the effective date of the Baltimore County Zoning Regulations (B.C.Z.R.) in 1945. The Petitioners have entered into a lease agreement with American PCS, L.P. who wishes to erect a wireless transmitting and receiving facility to the rear of the subject site in the location shown on Petitioner's Exhibit 1. The proposed facility will consist of a monopole approximately 150 feet in height, which will be hidden within the existing tree line on the property, in an area that will not interfere with the cemetery use. Due to the residential zoning of the property, its use as a cemetery and the proposed use of a portion of the site for a wireless transmitting and receiving facility, the special exception requests are necessary. Furthermore, inasmuch as the Petitioner is seeking special exception relief for two uses, that is the cemetery and the wireless transmitting and receiving facility, the relief requested within the special hearing is generated. The variance relief is necessitated by the narrow configuration of the lot and existing improvements thereon.

As stated previously, two adjacent property owners attended the hearing to express their concerns. Mr. Brimmer and Mr. Williamson own property adjacent to this site and indicated they would prefer that the monopole be located further from the southeastern property line adjoining

their respective properties. A brief discussion ensued between these gentlemen and representatives of American PCS, L.P. and it was determined and agreed that American PCS, L.P. would relocate the monopole further north from the location shown on Petitioner's Exhibit 1. A revised copy of the site plan, marked as Petitioner's Exhibit 1A, reflects the relocation of this monopole to an area 60 feet from the northern property line, thereby maintaining the full 300-foot distance from the south side property line adjoining the property owned by Messrs. Brimmer and Williamson. As a result of this relocation, the variance relief is modified, and the Petitioners need only seek a variance to permit a property line setback of 60 feet on the north side and 192 feet on the east side as a variance on the south side is no longer necessary.

As stated previously, the special hearing request was generated by the fact that the Petitioners wish to continue to utilize the 5-acre parcel being dedicated for the wireless transmitting and receiving facility as a cemetery. Both uses are passive uses, and can, in fact, coincide with one another. Therefore, the special hearing request shall be granted.

As to the special exception relief requested, the B.C.Z.R. permits cemeteries and wireless transmitting and receiving facilities in the D.P. 5.5 zone by special exception. The testimony was clear that the cemetery has existed on the property for many years without any adverse effects upon the surrounding locale and that the proposed wireless transmitting and receiving facility can be conducted without real detriment to the neighborhood. The monopole itself will be located within the mature tree line which exists on the property and only the top of the tower will be visible. The facts and circumstances do not show that the proposed use at the particular location described by Petitioner's Exhibit 1A would have

any adverse impact above and beyond that inherently associated with such a special exception use, irrespective of its location within the zone. Schultz v. Pritts, 432 A.2d 1319 (1981).

The proposed use will not be detrimental to the health, safety, or general welfare of the locality, nor tend to create congestion in roads, streets, or alleys therein, nor be inconsistent with the purposes of the property's zoning classification, nor in any other way be inconsistent with the spirit and intent of the B.C.Z.R.

After reviewing all of the testimony and evidence presented, it is clear that the Petitioners have satisfied the requirements of Sections 502.1 and 502.7 of the B.C.Z.R. and that the special hearing and special exception relief should be granted.

An area variance may be granted where strict application of the zoning regulations would cause practical difficulty to the Petitioner and his property. McLean v. Soley, 270 Md. 208 (1973). To prove practical difficulty for an area variance, the Petitioner must meet the following:

- 1) whether strict compliance with requirement would unreasonably prevent the use of the property for a permitted purpose or render conformance unnecessarily burdensome;
- 2) whether a grant of the variance would do a substantial justice to the applicant as well as other property owners in the district or whether a lesser relaxation than that applied for would give sufficient relief; and,
- 3) whether relief can be granted in such fashion that the spirit of the ordinance will be observed and public safety and welfare secured.

Anderson v. Bd. of Appeals, Town of Chesapeake Beach, 22 Md. App. 28 (1974).

ORDER RECEIVED FOR FILING  
Date 5/15/96  
By [Signature]

ORDER RECEIVED FOR FILING  
Date 5/15/96  
By [Signature]

ORDER RECEIVED FOR FILING  
Date 5/15/96  
By [Signature]

ORDER RECEIVED FOR FILING  
Date 5/15/96  
By [Signature]

After due consideration of the testimony and evidence presented, it is clear that a practical difficulty or unreasonable hardship will result if the variance, as modified, is not granted. Given the narrow configuration of the property, it is clear that the Petitioners would be unable to meet the setback requirements imposed by the B.C.Z.R. for the proposed monopole without the requested variance. Furthermore, the proposed location for this tower was agreed to by all parties present at the hearing. The evidence was clear that the relief requested will not adversely affect the health, safety and general welfare of the surrounding locale and meets the spirit and intent of the B.C.Z.R.

Pursuant to the advertisement, posting of the property, and public hearing on these Petitions held, and for the reasons given above, the special hearing, special exception and variance relief, as modified, should be granted.

THEREFORE, IT IS ORDERED by the Deputy Zoning Commissioner for Baltimore County this 15<sup>th</sup> day of May, 1996 that the Petition for Special Hearing to approve a wireless transmitting and receiving facility on the subject property as a use in combination with an existing cemetery, be and is hereby GRANTED; and,

IT IS FURTHER ORDERED that the Petitions for Special Exception to permit a cemetery and a wireless transmitting and receiving facility on the subject site, in accordance with Petitioner's Exhibit 1A, be and are hereby GRANTED; and,

IT IS FURTHER ORDERED that a variance from Section 502.7.C.2 of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit property line setbacks of 60 feet to the north and 192 feet to the east, in lieu of the

required 300 feet each for the proposed facility, in accordance with Petitioner's Exhibit 1A, be and is hereby GRANTED; and,

IT IS FURTHER ORDERED that the Petition for Variance seeking relief from Section 502.7.C.2 of the B.C.Z.R. to permit property line setbacks of 150 feet to the west, 197 feet to the east, and 210 feet to the north, all in lieu of the required 300 feet each, in accordance with Petitioner's Exhibit 1, be and is hereby DISMISSED, inasmuch as the location of the monopole has been altered.

TMK:bjs

Timothy M. Kotroco  
TIMOTHY M. KOTROCO  
Deputy Zoning Commissioner  
for Baltimore County

Baltimore County Government  
Zoning Commissioner  
Office of Planning and Zoning  
Suite 112 Courthouse  
400 Washington Avenue  
Towson, MD 21204  
May 15, 1996  
(410) 887-4386

Christine K. McSherry, Esquire  
Whiteford, Taylor & Preston  
210 W. Pennsylvania Avenue  
Towson, Maryland 21204

RE: PETITIONS FOR SPECIAL HEARING, SPECIAL EXCEPTION & VARIANCE  
N/S Windsor Mill Road, 510' NW of the c/l of Lorraine Avenue  
(Lorraine Park Cemetery)  
2nd Election District - 2nd Councilmanic District  
Hebrew Young Mens Sick Relief Association - Petitioners  
Case No. 96-348-SPHZA

Dear Ms. McSherry:

Enclosed please find a copy of the decision rendered in the above-captioned matter. The Petitions for Special Hearing, Special Exception, and Variance, as modified, have been granted in accordance with the attached Order.

In the event any party finds the decision rendered is unfavorable, any party may file an appeal to the County Board of Appeals within thirty (30) days of the date of this Order. For further information on filing an appeal, please contact the Zoning Administration and Development Management office at 887-3391.

Very truly yours,

Timothy M. Kotroco  
TIMOTHY M. KOTROCO  
Deputy Zoning Commissioner  
for Baltimore County

TMK:bjs

cc: Mr. Daniel Elkin, President, Hebrew Young Mens Sick Relief Assoc.  
9080 Meadow Heights Road, Randallstown, Md. 21133  
Margaret C. Ruggieri, Esquire, American PCS, L.P., One Democracy Ctr.  
6901 Rockledge Drive, Suite 600, Bethesda, Md. 20817  
Mr. Joseph E. Brimmer, 1370 Lynderton Drive, Silver Spring, Md. 20902  
Mr. Alfred Williamson, 1231 Providence Road, Towson, Md. 21286  
People's Counsel; Case File

ORDER RECEIVED FOR FILING  
Date 5/15/96  
By [Signature]

ORDER RECEIVED FOR FILING  
Date 5/15/96  
By [Signature]

**Petition for Special Hearing**  
to the Zoning Commissioner of Baltimore County  
for the property located at  
North Side of Windsor Mill Road  
2000 Ft. Southeast of  
Gwynn Oak Avenue  
which is presently zoned DR 5.5

This Petition shall be filed with the Office of Zoning Administration & Development Management. The undersigned, legal owner(s) of the property situated in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Special Hearing under Section 500.7 of the Zoning Regulations of Baltimore County, to determine whether or not the Zoning Commissioner should approve.

A use in combination for a wireless transmitting and receiving facility on an existing cemetery.

Property is to be posted and advertised as prescribed by Zoning Regulations. I, or we, agree to pay expenses of above Special Hearing advertising, posting, etc., upon filing of this petition, and further agree to and are to be bound by the zoning regulations and restrictions of Baltimore County adopted pursuant to the Zoning Law for Baltimore County.

Current Petitioner(s):  
Margaret C. Ruggieri, Esq.  
For American PCS, L.P.  
Type of Petitioner:  
Signature [Signature]  
One Democracy Center, Suite 600  
Address 6901 Rockledge Dr.  
Bethesda, MD 20817  
City State Zipcode

Attorney for Petitioner:  
Christine K. McSherry, Esq.  
Type of Petitioner:  
Signature [Signature]  
c/o Whiteford, Taylor & Preston  
210 W. Pennsylvania Ave.  
Address Towson, MD 21204 Phone No. 832-2000  
City State Zipcode

Use of advisory opinion and affirm, under the provisions of Section 500.7 of the Zoning Regulations of Baltimore County, that I, or we, are the legal owner(s) of the property which is the subject of this Petition.  
Legal Owner:  
Hebrew Young Mens Sick Relief Association  
Type of Petitioner:  
Signature [Signature]  
Daniel Elkin - Pres.  
Signature [Signature]  
Daniel Elkin - Pres.  
Address 9080 Meadow Heights Road  
(410) 523-0991  
City State Zipcode  
Randallstown, MD 21133  
Type of Petitioner:  
Signature [Signature]  
Christine K. McSherry, Esq.  
Address 210 W. Pennsylvania Ave. Phone No. 832-2000  
City State Zipcode

ESTIMATED LENGTH OF HEARING: \_\_\_\_\_  
Unadvertised for Hearing  
The following date: \_\_\_\_\_  
ALL OTHER: \_\_\_\_\_  
REVIEWED BY: R.T. DATE: 5-12-96  
ITEM # 346









Baltimore County  
Department of Permits and  
Development Management

Development Processing  
County Office Building  
111 West Chesapeake Avenue  
Towson, Maryland 21204

March 25, 1996

NOTICE OF HEARING

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County, will hold a public hearing on the property identified herein in Room 106 of the County Office Building, 111 W. Chesapeake Avenue in Towson, Maryland 21204

Room 118, Old Courthouse, 400 Washington Avenue, Towson, Maryland 21204 as follows:

CASE NUMBER: 96-348-SPHX (Item 346)  
NE/S Windsor Mill Road, 510' +/- NE of c/l Lorraine Avenue  
2nd Election District - 2nd Councilmanic  
Legal Owner: Hebrew Young Men's Sick Relief Association  
Contact Purchaser: American PCS, L.P.

Special Hearing to approve a use in combination for a wireless transmitting and receiving facility on an existing cemetery.  
Special Exception for a wireless transmitting and receiving facility.  
Special Exception for a cemetery.  
Variance to allow a setback of 158 feet to the nearest property line in lieu of the required 300 feet.

HEARING: WEDNESDAY, APRIL 17, 1996 at 9:00 a.m. in Room 106, County Office Building.

*Carl Jablon*  
Arnold Jablon  
Director

cc: Hebrew Young Men's Sick Relief  
Margaret C. Ruggieri, Esq.  
Christine K. McSherry, Esq.

NOTES: (1) ZONING STAFF & POST MUST BE RETURNED TO RM. 104, 111 W. CHESAPEAKE AVENUE ON THE HEARING DATE.  
(2) HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL ACCOMMODATIONS PLEASE CALL 887-3353.  
(3) FOR INFORMATION CONCERNING THE FILE AND/OR HEARING, CONTACT THIS OFFICE AT 887-3391.

Printed with Soybean Ink  
on Recycled Paper



Baltimore County  
Department of Permits and  
Development Management

Development Processing  
County Office Building  
111 West Chesapeake Avenue  
Towson, Maryland 21204

April 10, 1996

Ms. Christine K. McSherry, Esquire  
c/o Whiteford, Taylor & Preston  
210 W. Pennsylvania Avenue  
Towson, MD 21204

RE: Item No.: 346  
Case No.: 96-348-SPHX  
Petitioner: Daniel Elkiw

Dear Ms. McSherry:

The Zoning Advisory Committee (ZAC), which consists of representatives from Baltimore County approval agencies, has reviewed the plans submitted with the above referenced petition, which was accepted for processing by Permits and Development Management (PDM), Zoning Review, on March 21, 1996.

Any comments submitted thus far from the members of ZAC that offer or request information on your petition are attached. These comments are not intended to indicate the appropriateness of the zoning action requested, but to assure that all parties (zoning commissioner, attorney, petitioner, etc.) are made aware of plans or problems with regard to the proposed improvements that may have a bearing on this case. Only those comments that are informative will be forwarded to you; those that are not informative will be placed in the permanent case file.

If you need further information or have any questions regarding these comments, please do not hesitate to contact the commenting agency or Joyce Watson in the zoning office (887-3391).

Sincerely,

*W. Carl Richards, Jr.*  
W. Carl Richards, Jr.  
Zoning Supervisor

WCR/jw  
Attachment(s)

Printed with Soybean Ink  
on Recycled Paper

BALTIMORE COUNTY, MARYLAND  
INTER-OFFICE CORRESPONDENCE

TO: Arnold Jablon, Director  
Permits and Development  
Management

DATE: March 21, 1996

FROM: Pat Keller, Director  
Office of Planning

SUBJECT: Petitions from Zoning Advisory Committee

The Office of Planning has no comments on the following petition(s):

Item Nos. 340, 343, 346, and 349.

If there should be any further questions or if this office can provide additional information, please contact Jeffrey Long in the Office of Planning at 887-3480.

Prepared by: *Jeffrey W. Long*

Division Chief: *Cheryl L. Keno*

PK/JL

ITEM340A/PZONE/ZAC1

Baltimore County Government  
Fire Department



700 East Joppa Road  
Towson, MD 21286-5500

Office of the Fire Marshal  
(410) 887-4880

DATE: 03/21/96

Arnold Jablon  
Director  
Zoning Administration and  
Development Management  
Baltimore County Office Building  
Towson, MD 21204  
MAIL STOP-1105

RE: Property Owner: SEE BELOW

Location: DISTRIBUTION MEETING OF MAR. 25, 1996

Item No.: SEE BELOW Zoning Agenda:

Gentlemen:

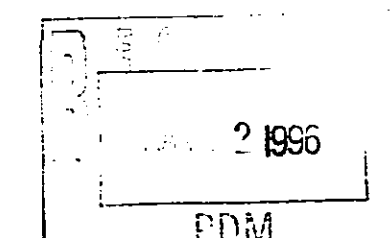
Pursuant to your request, the referenced property has been surveyed by this Bureau and the comments below are applicable and required to be corrected or incorporated into the final plans for the property.

B. The Fire Marshal's Office has no comments at this time, IN REFERENCE TO THE FOLLOWING ITEM NUMBERS: 343, 344, 345, 346, 347 AND 349.

REVIEWER: LT. ROBERT P. SAUERWALD  
Fire Marshal Office, PHONE 887-4881, MS-1102F

cc: File

Printed with Soybean Ink  
on Recycled Paper



Maryland Department of Transportation  
State Highway Administration

David L. Winstead  
Secretary  
Hal Kassoff  
Administrator

Ms. Joyce Watson  
Baltimore County Office of  
Permits and Development Management  
County Office Building, Room 109  
Towson, Maryland 21204

RE: Baltimore County  
Item No. 346 (27)

Dear Ms. Watson:

This office has reviewed the referenced item and we have no objection to approval as it does not access a State roadway and is not affected by any State Highway Administration projects.

Please contact Bob Small at 410-333-1350 if you have any questions.

Thank you for the opportunity to review this item.

Very truly yours,

*Bob Small*

for Ronald Burns, Chief  
Engineering Access Permits  
Division

BS/es

My telephone number is \_\_\_\_\_  
Maryland Relay Service for Impaired Hearing or Speech  
1-800-735-2256 Statewide Toll Free  
Mailing Address: P.O. Box 717 • Baltimore, MD 21203-0717

BALTIMORE COUNTY, MARYLAND  
INTEROFFICE CORRESPONDENCE

TO: Arnold Jablon, Director  
Department of Permits & Development  
Management

Date: April 1, 1996

FROM: Robert W. Bowling, Chief  
Development Plans Review Division  
Department of Permits & Development  
Management

SUBJECT: Zoning Advisory Committee Meeting  
for April 1, 1996  
Item Nos. 344, 346, 347, 348, 349, 350

The Development Plans Review Division has reviewed the subject zoning item, and we have no comment.

RWB:jtb

cc: File

ZONE4A

RE: PETITION FOR SPECIAL HEARING  
PETITION FOR SPECIAL EXCEPTION  
PETITION FOR VARIANCE  
NE/S Windsor Mill Road, 510' +/- NE of  
c/l Lorraine Avenue, 2nd election  
District, 2nd Councilmanic  
Legal Owner: Hebrew Young Men's Sick Relief Assn.  
Contact Purchaser: American PCS, L.P.  
Petitioners

BEFORE THE  
ZONING COMMISSIONER  
OF BALTIMORE COUNTY  
CASE NO. 96-348-SPHX

ENTRY OF APPEARANCE

Please enter the appearance of the People's Counsel in the above-captioned matter. Notice should be sent of any hearing dates or other proceedings in this matter and of the passage of any preliminary or final Order.

*Peter Max Zimmerman*  
PETER MAX ZIMMERMAN  
People's Counsel for Baltimore County

*Carole S. Demilio*  
CAROLE S. DEMILIO  
Deputy People's Counsel  
Room 47, Courthouse  
400 Washington Avenue  
Towson, MD 21204  
(410) 887-2188

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 10th day of April, 1996, a copy of the foregoing Entry of Appearance was mailed to Christine K. McSherry, Esquire, Whiteford, Taylor and Preston, 210 W. Pennsylvania Avenue, Towson, MD 21204, attorney for Petitioner.

*Peter Max Zimmerman*  
PETER MAX ZIMMERMAN

WHITEFORD, TAYLOR & PRESTON  
L.L.P.

210 WEST PENNSYLVANIA AVENUE  
TOWSON, MARYLAND 21204-4515  
410-832-2000  
410-852-2015

1005 PENNSYLVANIA AVENUE, NW  
WASHINGTON, D.C. 20004-5495  
TELEPHONE: 202-696-6800  
FAX: 202-696-6875

1417 KING STREET  
ALEXANDRIA, VIRGINIA 22314-2928  
TELEPHONE: 703-836-4712  
FAX: 703-836-4824

April 3, 1996

The Honorable Lawrence D. Schmidt  
Zoning Commissioner for Baltimore County  
Office of Planning and Zoning  
Old Courthouse, Room 112  
400 Washington Avenue  
Towson, Maryland 21204

Re: Case No. 96-348 SPHXZ (Item 346)  
Hebrews Young Men's Sick Relief Association

Dear Mr. Schmidt:

Enclosed you will find the Certificate of Publication stating that the public hearing on the above-referenced matter scheduled for Wednesday, April 17, 1996 at 9:00 a.m. has been advertised in *The Jeffersonian* during the week of March 28, 1996. Please accept this certificate as verification that the hearing has been properly advertised.

If you have any questions or comments, please feel free to call me.

Sincerely,

*Christine K. McSherry*  
Christine K. McSherry

CKM:sl  
Enclosure

74430



WHITEFORD, TAYLOR & PRESTON  
L.L.P.

210 WEST PENNSYLVANIA AVENUE  
TOWSON, MARYLAND 21204-4515  
410.842.2000  
FAX 410.852.2015

APR 26 1996

April 25, 1996

Via Hand Delivery

Timothy M. Kotroco, Deputy Zoning Commissioner  
Zoning Commissioner's Office  
400 Washington Avenue  
Towson, Maryland 21204

Re: Hebrew Young Mens Cemetary  
Special Exception and Variance Petitions

Dear Tim:

Enclosed you will find the revised site plans for this special exception and variance petition. As we discussed at the hearing, we have relocated the monopole on the site. It is no longer centered between the two side property lines, but rather is placed 300 feet from the property line closest to the Streamwood Development. Consequently, we would like to request that you revise our variance petition to request a variance of 60 feet in lieu of the required 300 feet from the side lot line.

If you require any further information on this revised site plan, please feel free to call me. Thank you for your assistance.

Sincerely,

Christine K. McSherry

CKM:sll  
Enclosures

PLEASE PRINT CLEARLY

BALTIMORE COUNTY REPRESENTATIVES  
SIGN-IN SHEET

NAME	ADDRESS
Kevin L. Mason	Vento Communications, 1110 N. Glebe Rd. #400 850 Arlington, VA 22201
Bob Morelock	DMIL Inc 200 E. PENNA. AVE TOWSON, MD 21206

PLEASE PRINT CLEARLY

CITIZEN SIGN-IN SHEET

NAME	ADDRESS
John S. Williams	1376 Lumberton Drive Silver Spring, Md 20903
John S. Williams	1231 Lumberton Rd Towson, Md 21286

AMERICAN PERSONAL COMMUNICATIONS (APC)

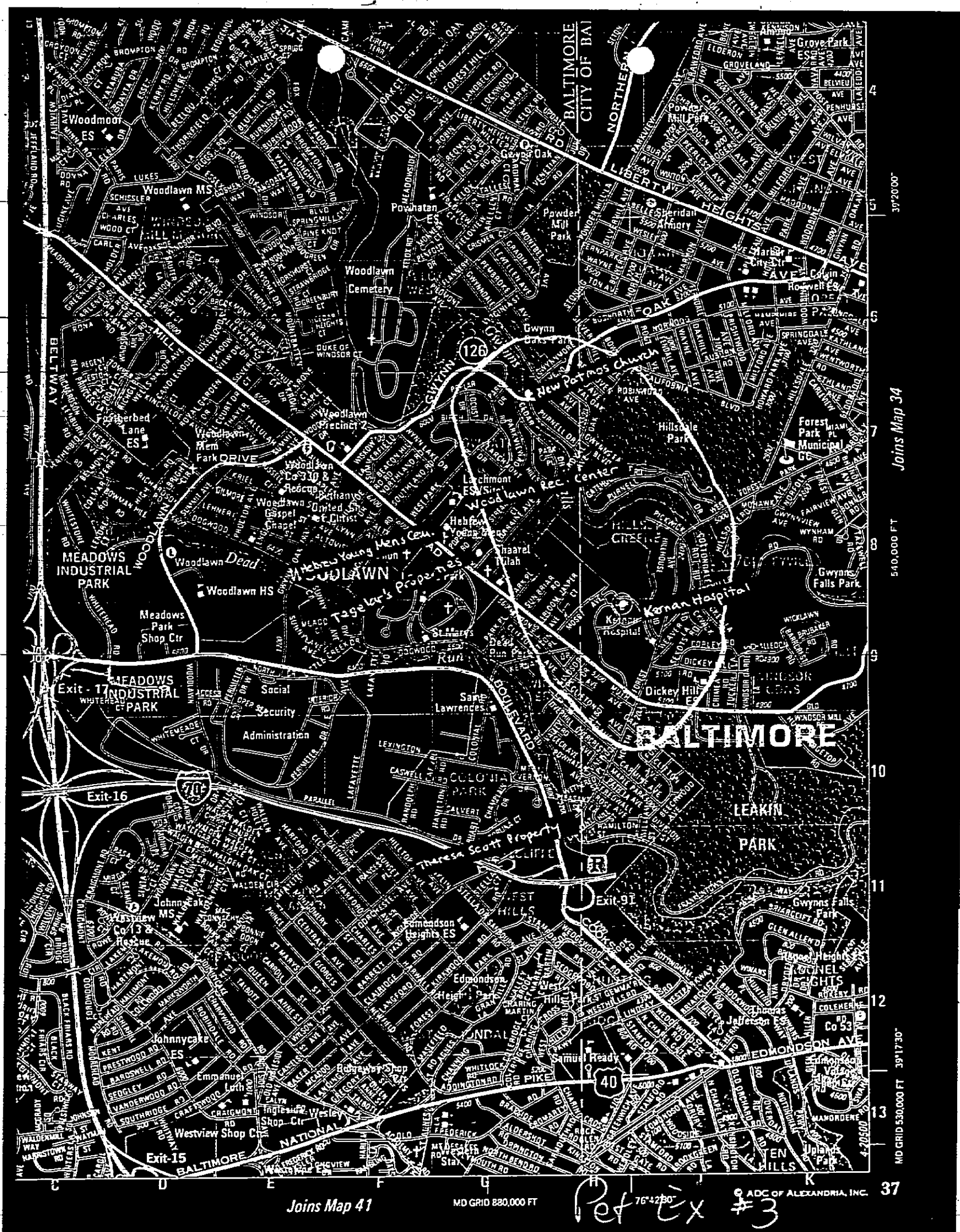
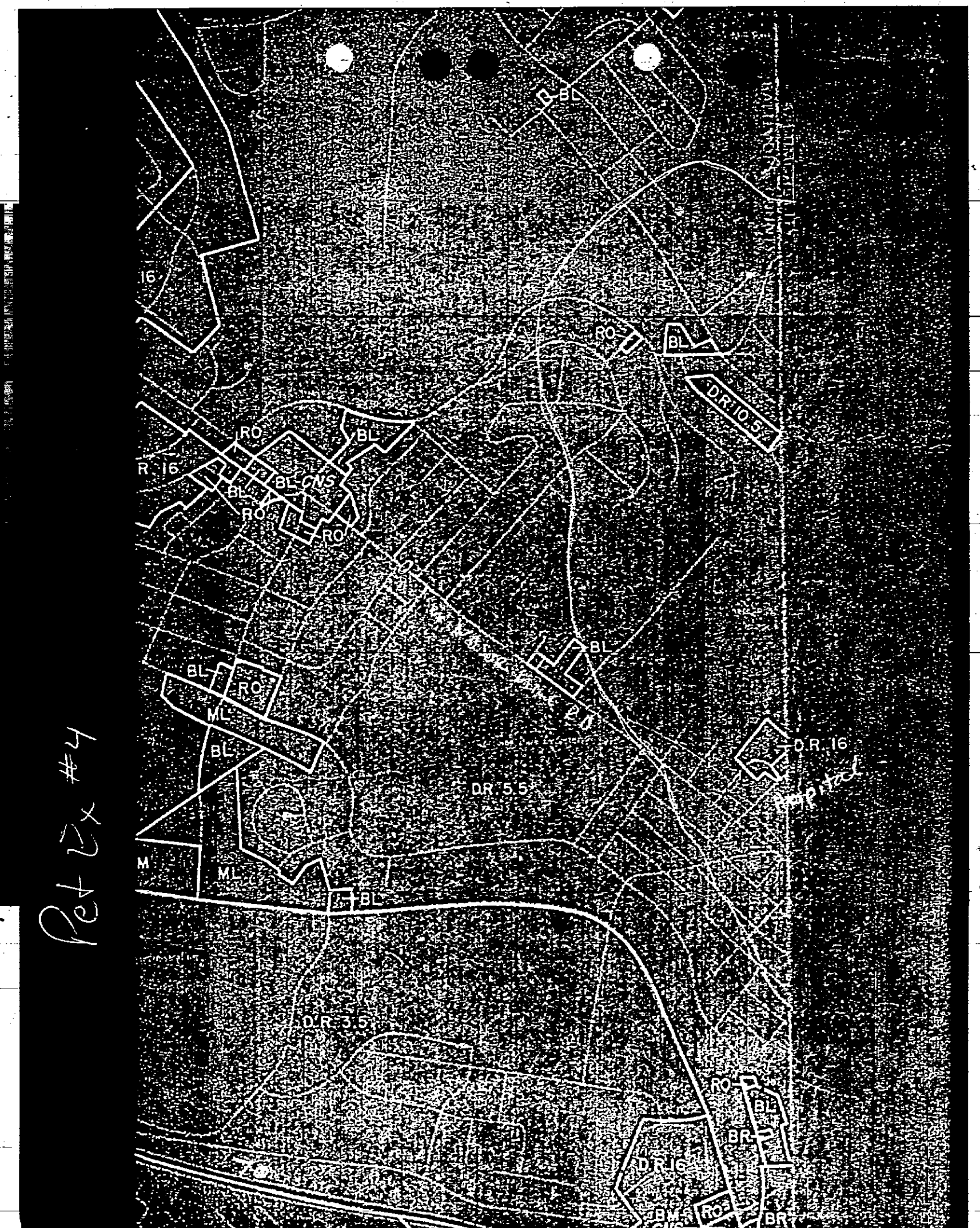
Case No: 96-348 SPHXA Item No: 346

HEARING BEFORE THE BALTIMORE COUNTY  
ZONING COMMISSIONER  
April 17, 1996

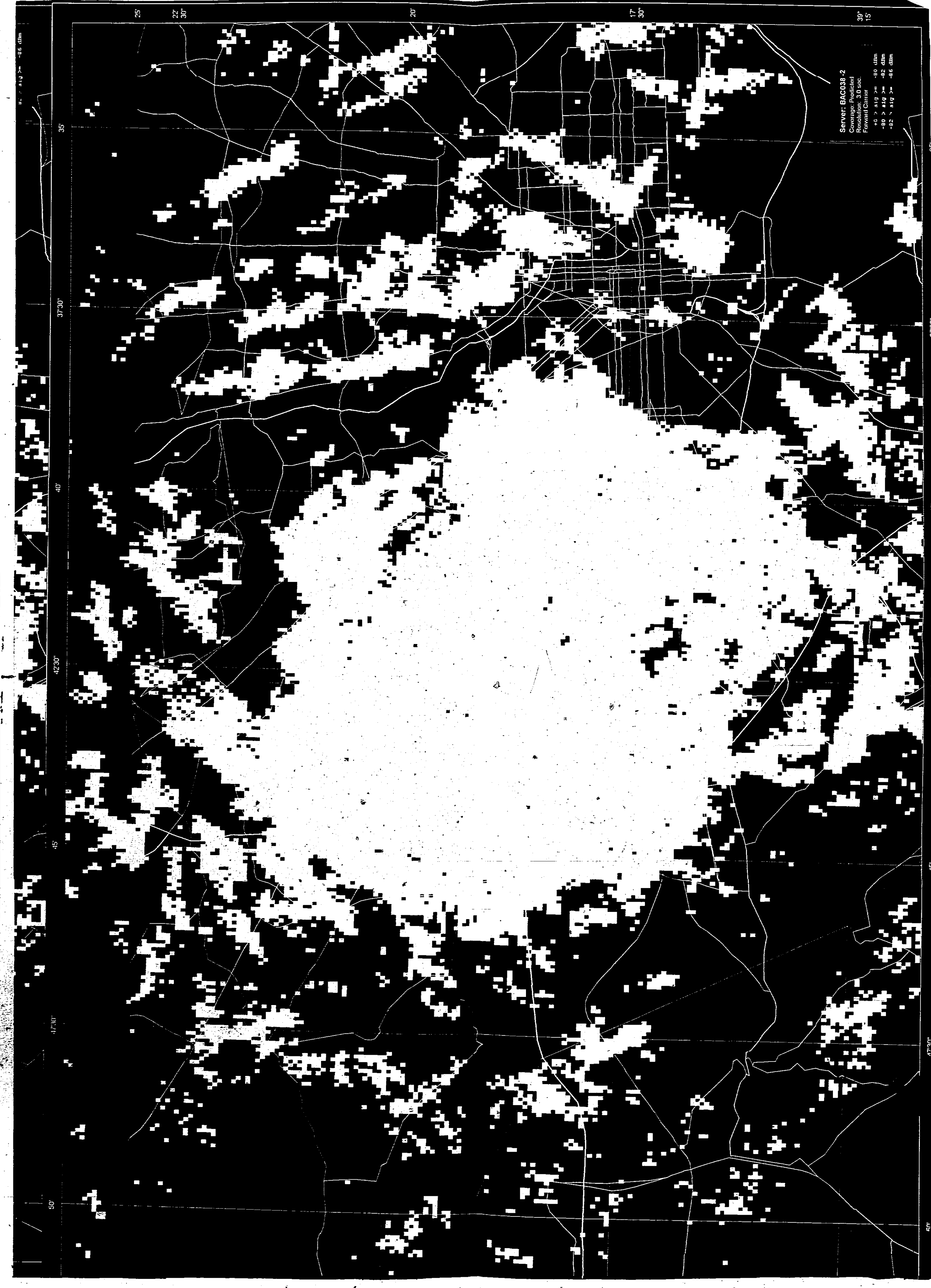
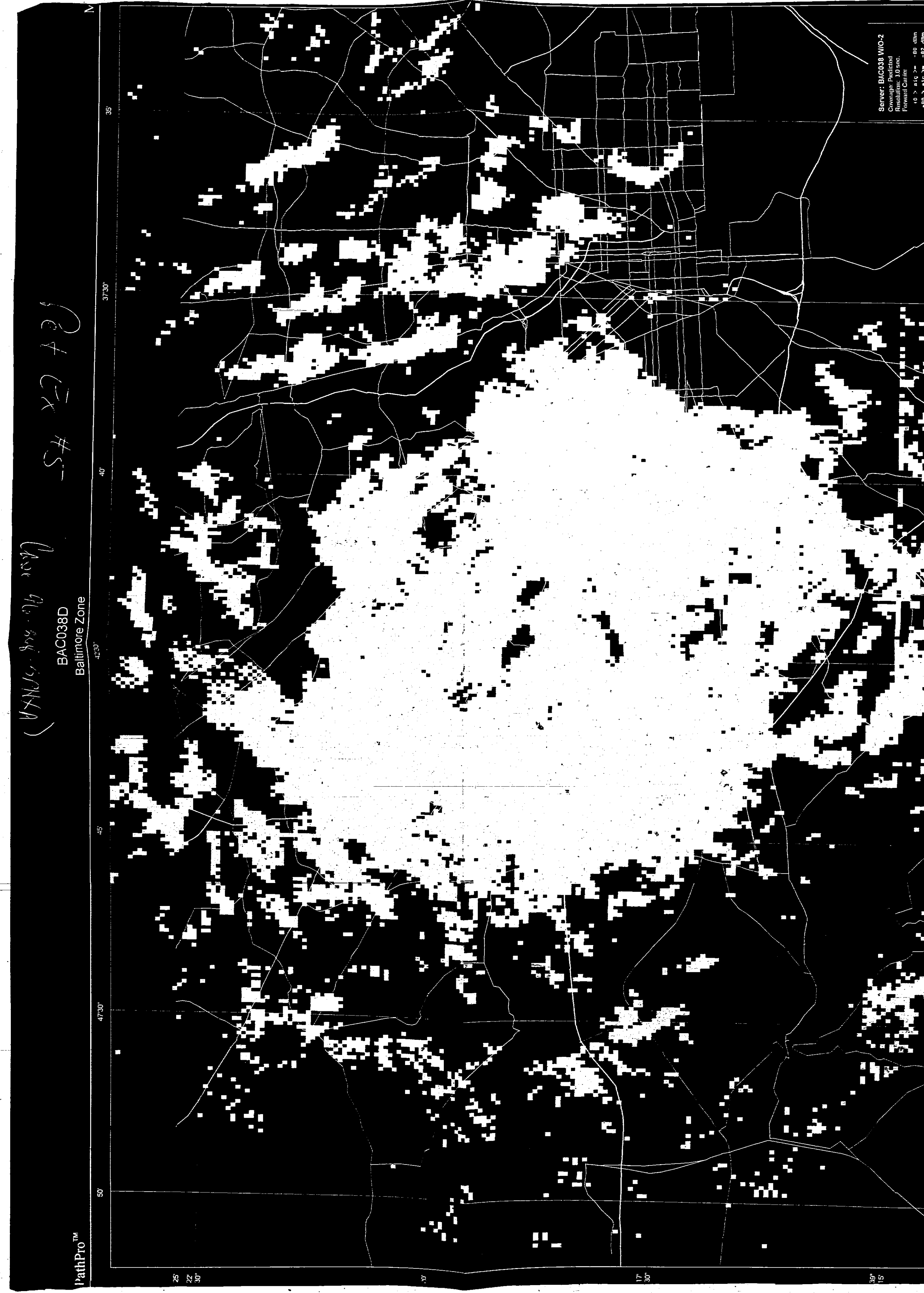
TABLE OF CONTENTS

1. Photograph of site located on the northeast side of Windsor Mill Rd, southeast of Gwynn Oak Avenue
2. Lease Agreement with the Hebrew Young Men's Association, Inc.
3. Photographs and Specification Sheets for Antennas
4. Photograph and Specification Sheets for Equipment Cabinets
5. FCC License
6. Radio Frequency Statement - Jules Cohen
7. FCC Statement on PCS - Creating Significant Benefits for Consumers and Business
8. FCC's Chairman, Reed Hundt, Speech Excerpts

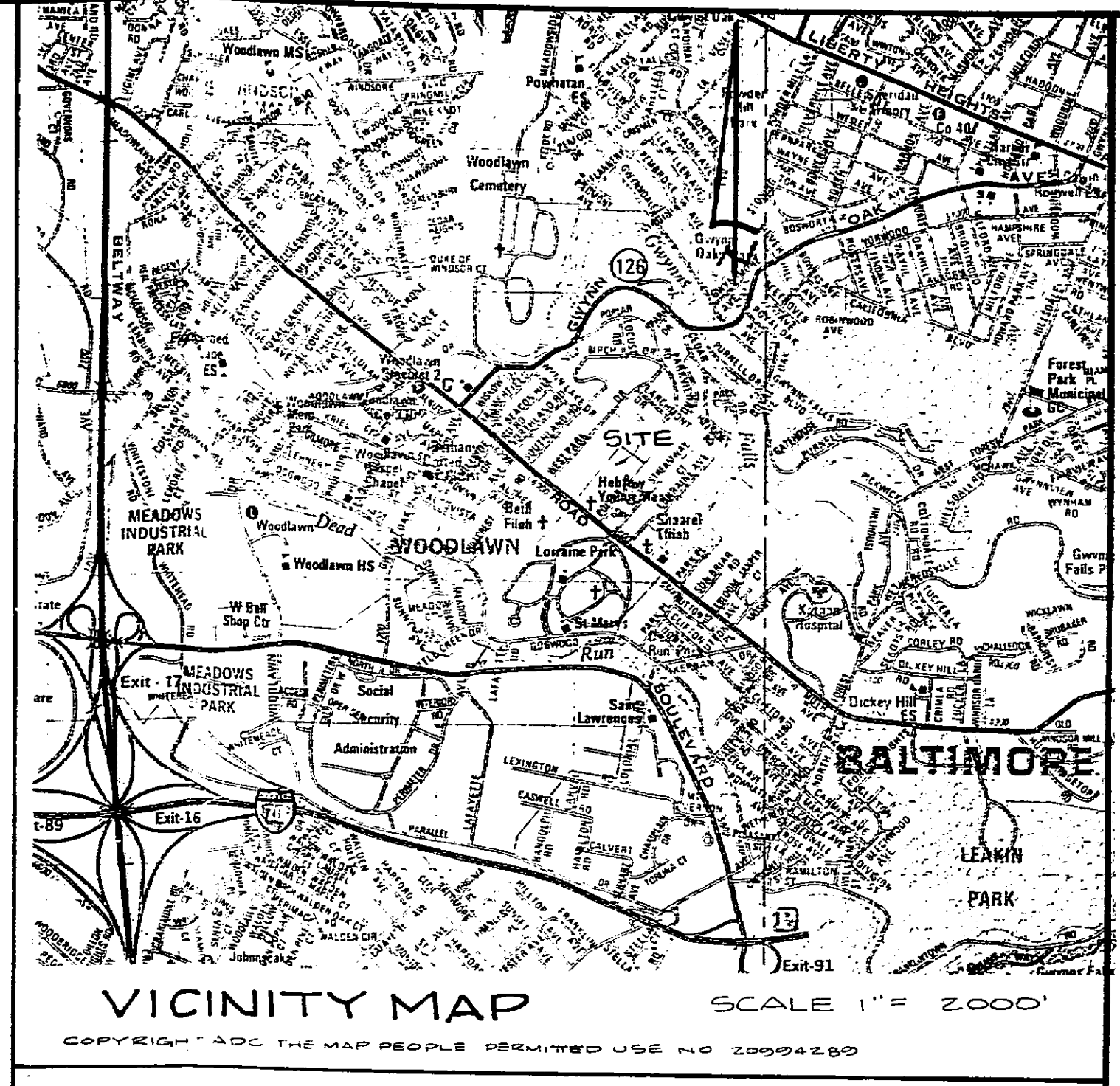
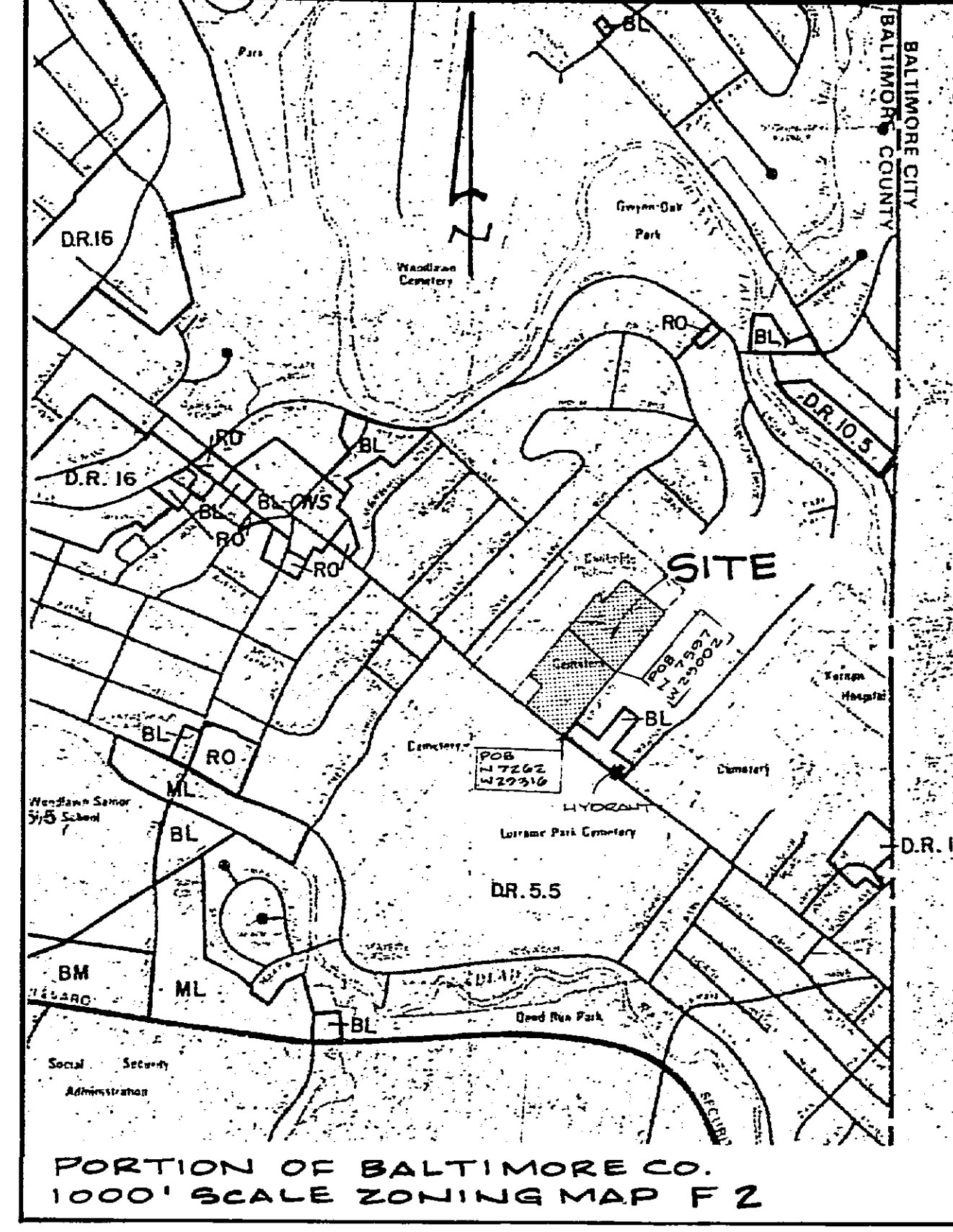
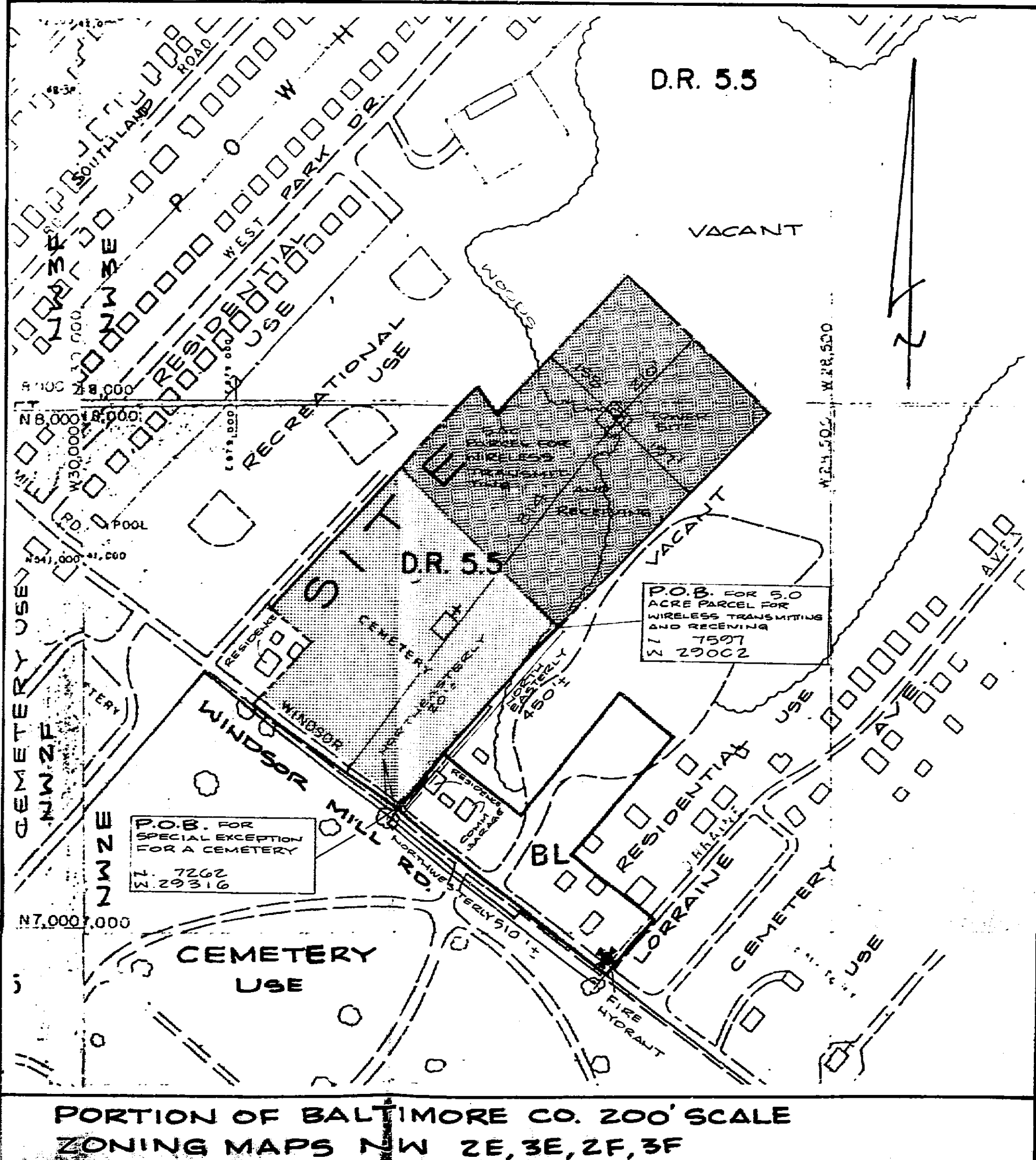
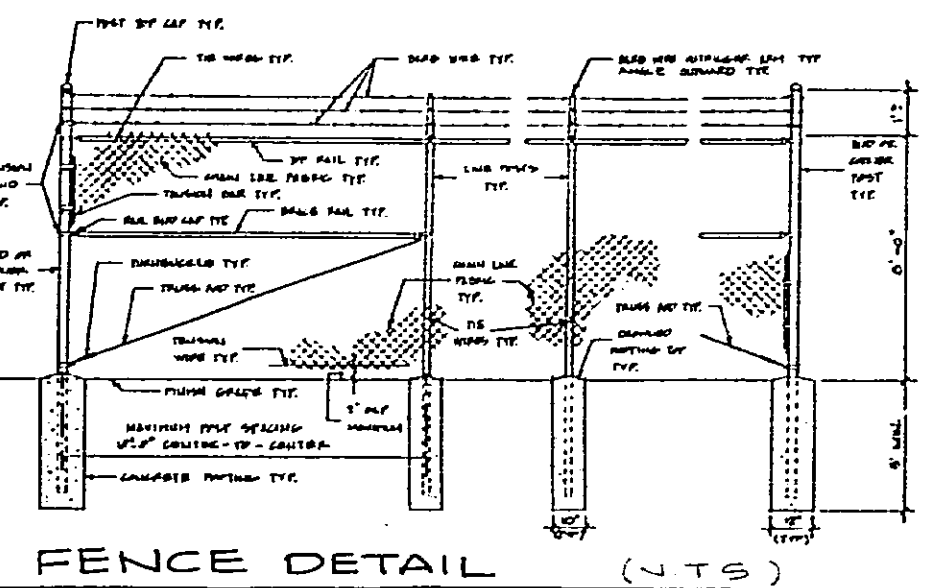
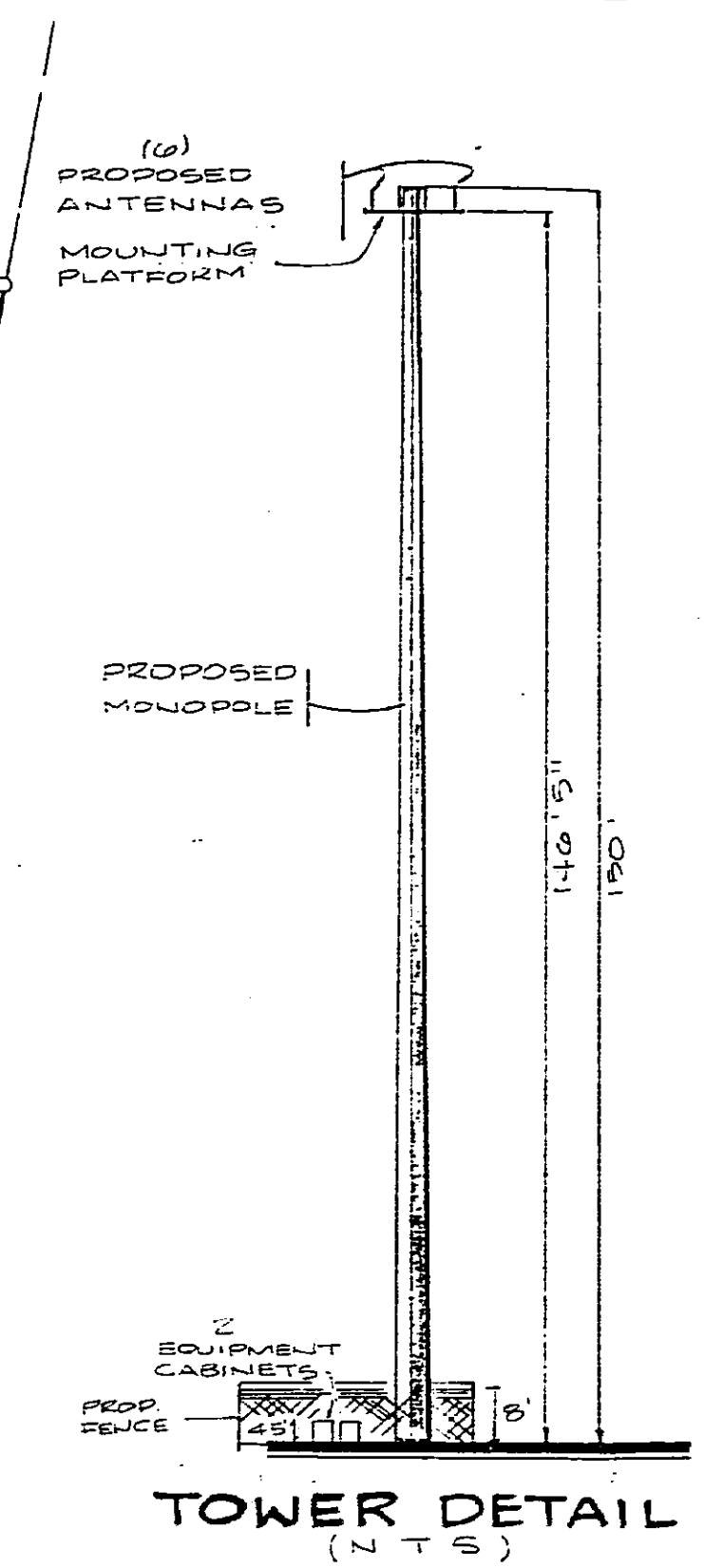
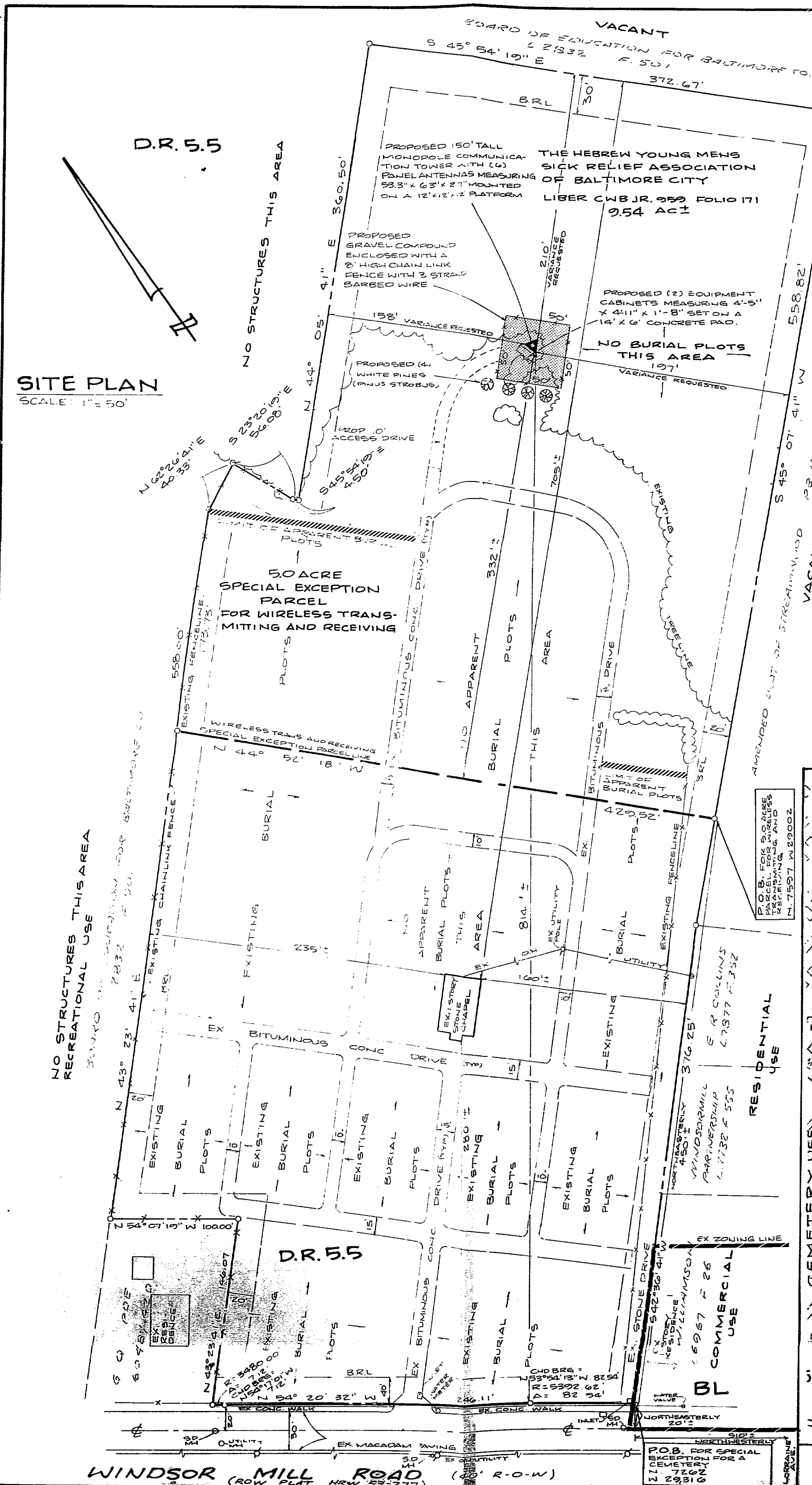
2112 Old Court Road, Baltimore, MD 21208-3432 (410) 552-4210 Fax: (410) 521-5630  
One Democracy Center, 6901 Rockledge Drive, Suite 600, Bethesda, MD 20817 (301) 214-9300 Fax: (301) 214-9490  
1-800-TALK-APC











- NOTES:**
- Current owner and address: Hebrew Young Men's Sick Relief Association of Baltimore City, 1111 Park Avenue, Baltimore, MD.
  - Contract lessee/ Applicant: American PCS, L.P., One Democracy Way, 6901 Rockledge Drive, Suite 600, Bethesda, Maryland 20817.
  - Site area: 9.54 Acres (Cemetery Use), 5 Acres (Wireless Transmitting and Receiving Facility).
  - Existing use: Cemetery.
  - Site Address: NE side of Windsor Mill Road.
  - Site data: Tax map 88 block 21 parcel 485, Tax Account No.: 01-08-301150, Deed reference: Liber 959 Folio 171, Zoning: D.R. 5.5, Election District: 2, Councilmanic District: 2.
  - The proposed wireless transmitting and receiving facility will consist of a 150 foot monopole with (6) panel antennas measuring 53.3" high x 6.3" wide x 2.7" deep, mounted on a 122'x122' platform and (2) equipment cabinets measuring 4'-5" high x 4'-11" wide x 1'-8" deep.
  - No water or sanitary utilities are required for the facility.
  - The information and boundary location shown hereon have been compiled from deeds and other sources believed to be reliable, however their accuracy is not guaranteed and is subject to revision.
  - No additional site, antenna lights or white strobe lights are proposed.
  - There are no new signs proposed for this facility.
  - Amenity open space: N/A.
  - This site was the subject of the following permits: none found.
  - Zoning History: There are no Zoning Cases on file for this property.
  - Required setbacks: For Non-Residential Principal Buildings: Front 40', Side 20', Street Corner Side 35', Rear 30'. For Wireless Transmission and Receiving facility: 300 feet to property line all sides (two times the tower height).
  - An environmental impact statement, as defined in Section 101 of the Baltimore County Zoning Ordinance shall be submitted to the Zoning Commissioner.
  - Attorney: Christine K. McSherry, Whiteford, Taylor, & Preston, 500 Court Towers, 210 West Pennsylvania Avenue, Towson, MD 21204-4515, (410) 832-2000.

**Requested Zoning Action:**

Petition for Special Exception to permit a wireless transmitting and receiving facility.

Petition for a Variance from BCZR § 502.7 C.2. to permit a setback of 197 feet from the east side property line, a setback of 150 feet from the west side property line, and a setback of 210 feet from the rear property line for a wireless transmitting and receiving facility in lieu of the required 300 feet.

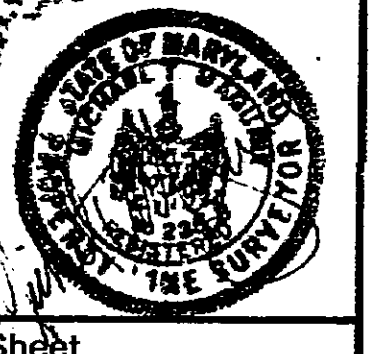
Petition for Special Exception for a Cemetery.

Petition for Special Hearing for a use in combination of a wireless transmitting and receiving facility on an existing cemetery.

**DMW**  
DRAFT McNE Walker, Inc.  
A Team of Land Planners,  
Landscape Architects,  
Engineers, Surveyors &  
Environmental Professionals  
200 E. Truitt Avenue  
Towson, Maryland 21204  
(410) 296-3333  
Fax: 296-4705

SECOND ELECTION DISTRICT  
BALTIMORE COUNTY, MARYLAND  
SPECIAL EXCEPTION  
SPECIAL HEARING  
SITE PLAN TO ACCOMPANY PETITION FOR  
VARIANCE  
HEBREW YOUNG MEN'S  
SICK RELIEF ASSOCIATION PROPERTY

No.	Description	Date
REVISIONS		
Proj. No.	24161.08	
Date	2-12-96	
Scale	AS SHOWN	
Last Rev.		



PRINTED

MAR 12 1996

DAFT-MCCUNE-WALKER, INC.

Sheet  
1 OF 1  
ITEM # 346

96-348-SPHXA